



BUFFALO   
greencode

Unified Development  
Ordinance

PREPARED FOR  
THE CITY OF BUFFALO  
MAYOR'S OFFICE OF STRATEGIC PLANNING  
MAYOR BYRON W. BROWN  
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# Article 1. Introductory Provisions

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## 1.1 TITLE, PURPOSE, AND APPLICABILITY

### 1.1.1 Title

This Ordinance, which includes the Zoning Map, is known, cited, and referred to as the “Unified Development Ordinance,” or “Ordinance.”

### 1.1.2 Purpose

This Ordinance is adopted in accordance with a comprehensive plan to promote the interest and welfare of the people through standards that address the orderly and compatible use of land, the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and type of blocks, thoroughfares, and open spaces.

### 1.1.3 Authority

This Unified Development Ordinance is adopted pursuant to New York State General City Law and New York State Municipal Home Rule Law.

### 1.1.4 Territorial Application

This Ordinance applies to all land, structures, and uses within the corporate boundaries of the City of Buffalo.

### 1.1.5 Minimum Requirements

In their interpretation and application, the provisions of this Ordinance are the minimum requirements for the protection and promotion of the public health, safety, and welfare.

### 1.1.6 Required Conformance

No structure may be erected, converted, enlarged, reconstructed, moved, or altered for use; no land or structures may be used or changed; and no lots of record established, by subdivision or otherwise, that do not conform with all applicable regulations of this Ordinance, unless otherwise expressly allowed by Section 1.3.

### 1.1.7 Relationship to Other Regulations

**A.** Where conditions, standards, or requirements imposed by any provision of this Ordinance are either more restrictive or less restrictive than any standard imposed by any other statute, law,

ordinance, regulation, license, or permit, the most restrictive of any such standards control. An exception to this is City Code Chapter 511. In the instance that any provision of this Ordinance is in conflict with any section of Chapter 511 the standard from this Ordinance shall prevail.

- B.** Whenever a provision of this Ordinance refers to any other part of the City Code or to any other law, the reference applies to any subsequent amendment of that law.
- C.** Notwithstanding the provisions of this Ordinance, the New York State Uniform Fire Prevention and Building Code, and State Energy Conservation Construction Code, are applicable and controlling at all times.
- D.** A development that is proposed for a local landmark or within a local historic district must also comply with City Code, Chapter 337, Preservation Standards. Whenever a development must comply with the Secretary of the Interior’s standards for the preservation, rehabilitation, restoration, or reconstruction of a registered historic building or site, and such standards conflict with any provision of this Ordinance, the Secretary of the Interior’s standards control.
- E.** Whenever a development is proposed within an Urban Renewal Area and must comply with an Urban Renewal Plan that was adopted by the City of Buffalo and remains in effect, and such standards conflict with any provision of this Ordinance, this Ordinance controls.

### 1.1.8 Conflicting Provisions

If any provision of this Ordinance contains an actual, implied, or apparent conflict with another provision of this Ordinance, the more restrictive provision controls.

### 1.1.9 Severability

If any section, paragraph, subdivision, clause, sentence, or provision of this Ordinance is adjudged by any court of competent jurisdiction to be invalid, that judgment does not affect, impair, invalidate, or nullify the remainder of this Ordinance. The effect of the judgment is confined to the section, paragraph, subdivision, clause, sentence, or provision specifically addressed in the controversy in which the judgment or decree was made.

## 1.2 ZONING MAP

### 1.2.1 Zoning Map Incorporated

- A. The Zoning Map is incorporated and made part of this Unified Development Ordinance as if fully set forth and described in this Ordinance.
- B. The Zoning Map is maintained by the City Clerk.

### 1.2.2 Establishment of Zones

In order to carry out the purposes of this Ordinance, the City of Buffalo is divided into the following zones, as indicated on the Zoning Map:

#### A. Neighborhood Zones

- N-1D Downtown/Regional Hub
- N-1C Mixed-Use Core
- N-1S Secondary Employment Center
- N-2C Mixed-Use Center
- N-2E Mixed-Use Edge
- N-2R Residential
- N-3C Mixed-Use Center
- N-3E Mixed-Use Edge
- N-3R Residential
- N-4-30 Single-Family
- N-4-50 Single-Family
- N-DER Downtown Entertainment Review Overlay

#### B. District Zones

- D-R Residential Campus
- D-M Medical Campus
- D-E Educational Campus
- D-S Strip Retail
- D-C Flex Commercial
- D-IL Light Industrial
- D-IH Heavy Industrial
- D-OS Square
- D-OG Green
- D-ON Natural

#### C. Corridor Zones

- C-M Metro Rail
- C-R Rail
- C-W Waterfront

### 1.2.3 Zoning Map Boundaries

- A. The precise location of a zone boundary line on the Zoning Map is determined as follows:
  1. Where a boundary line is shown as coinciding, binding along, or superimposed on a lot line, the boundary is that lot line.
  2. Where a boundary line is shown as within or along a public or private right-of-way, the boundary is the centerline of that right-of-way.
  3. Where a boundary line is indicated by a designated number of feet, that distance controls.
  4. Where a boundary line is shown as a railroad right-of-way line, the boundary is the railroad right-of-way line.
  5. Where a boundary line is shown as following the shoreline of a water body, the boundary line is the mean high water line of the water body, as determined by the U.S. Army Corps of Engineers.
  6. Where a boundary line is shown as following the centerlines of streams, rivers, or other continuously flowing watercourses, the boundary line follows the channel centerline of the watercourses at mean low water line, as determined by the U.S. Army Corps of Engineers. In the event of change in the location of such streams, rivers, or other watercourses, the boundaries move with the channel centerline.
  7. Where a boundary line is shown and its location is not fixed by any of the rules of this section, its precise location is determined by scaling from fixtures, objects, or other structures shown on the map.
- B. In the event that any uncertainty exists with respect to the intended boundaries as shown on the Zoning Map, the Zoning Administrator is authorized to interpret the boundaries per Section 11.3.11.
- C. In the case of a split lot, in which a zone boundary line runs through a lot, zone standards are applied separately to each portion of the lot.

## 1.3 TRANSITION RULES

### 1.3.1 Illegal Structures and Uses

- A.** Any structure or use that was illegal prior to adoption of this Ordinance, but is subsequently made legal by this Ordinance, is deemed legal as of the effective date of this Ordinance.
- B.** Any structure or use that was illegal prior to adoption of this Ordinance, and does not conform to all requirements of this Ordinance, remains illegal. Illegal structures and uses are not considered nonconforming structures or uses.

### 1.3.2 Creation of Nonconformities

A legal structure, use, or lot that conformed to all prior requirements of the zoning ordinance, subdivision ordinance, and other referenced ordinances in force prior to the effective date of this Ordinance, but no longer meets all the standards of this Ordinance, is deemed nonconforming and is controlled by the provisions of Section 12.1.

### 1.3.3 Previously Granted Approvals

- A.** If any approval was lawfully issued prior to the effective date of this Ordinance, the action authorized by the approval that was issued may be undertaken, except as follows:
  - 1.** If a required approval from the Planning Board, Zoning Board of Appeals, or Common Council is not received prior to the effective date of this Ordinance, then all applications for the proposed project, including those for which an approval has previously been granted, will be considered pending applications pursuant to Section 1.3.4.
- B.** If the applicant fails to act before any approval expires, including any periods of extension granted, the provisions of this Ordinance govern and the previous approval is revoked.

### 1.3.4 Pending Applications

- A.** An application that has been submitted and determined to be complete (per Section 11.2.1.D) prior to the effective date of this Ordinance is deemed to be a pending application.

- B.** Any pending application for a proposed project, for which all approvals required under the previous Ordinance (i.e., Chapter 511 of the City Code of the City of Buffalo) from the Planning Board, Zoning Board of Appeals, and Common Council, were not granted prior to the effective date of this Ordinance, will be governed by this Ordinance.
- C.** Any pending application for a proposed project, for which all approvals required under the previous Ordinance (i.e., Chapter 511 of the City Code of the City of Buffalo) from the Planning Board, Zoning Board of Appeals, and Common Council, have been granted prior to the effective date of this Ordinance, will be governed by the ordinance in effect at the time all approvals were effective.
- D.** For a proposed project that has been determined to be a pending application governed under this Ordinance:
  - 1.** A new application is not required unless the appropriate ordinance administrator or review body determines that additional information is necessary.
  - 2.** If the provision of parking was required under the previous ordinance, a Transportation Demand Management Plan will only be required if the project was determined to be deficient in parking and, therefore, would have required a variance.

# Article 2. Definitions & Measurements

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## 2.1 RULES OF INTERPRETATION

### 2.1.1 Definitions

Whenever a defined word appears in the Ordinance, its meaning is as set forth in this article. Words not defined in this Ordinance are interpreted in accord with their usual dictionary meaning and customary usage.

### 2.1.2 Current Versions and Citations

All references to other regulations or manuals in this Ordinance refer to the most current version and citation for those regulations or manuals, unless expressly indicated otherwise. When the referenced regulations or documents have been repealed and not replaced by other regulations or manuals, Ordinance requirements for compliance are no longer in effect.

### 2.1.3 Delegation of Authority

Whenever a provision requires the head of a department or another officer or employee of the City to perform an act or duty, that provision will be interpreted as authorizing the department head or officer to delegate that responsibility to others over whom he or she has authority.

### 2.1.4 Text and Graphics

Illustrations, diagrams, and flowcharts are included in this Ordinance to illustrate the intent and requirements of the text. In the case of a conflict between the text and any illustration, diagram, or flowchart, the text controls.

### 2.1.5 Lists and Examples

Unless otherwise expressly indicated, lists of items or examples that use “including,” “such as,” or similar terms are intended to provide examples only, and must not be construed as being limited to the items or examples listed.

### 2.1.6 Time

- A. When a number of days is specified as a period from a certain day within which or after or before which an act is authorized or required to be done, time is computed as the number of calendar days excluding the

calendar day when the act is authorized or required to be done.

- B. In computing any specified period of time from a specified event, the day on which the event happens is deemed the day from which an act is authorized or required to be done.
- C. If the period is of two days, Saturday, Sunday, or a public holiday is excluded if it is an intervening day between the day when an act is authorized or required to be done and the last day of the period.

### 2.1.7 Fractions

Any fraction greater than or equal to 0.5 will be rounded up to nearest whole number. Any fraction less than 0.5 will be rounded down to nearest whole number.

### 2.1.8 Mandatory, Prohibitory, and Permissive Terms

- A. “Must,” “will,” and “shall” are mandatory terms that express a requirement or impose a duty.
- B. “Must not,” “will not,” “shall not,” “may not,” and “no... may” express a prohibition.
- C. “Should” expresses a suggestion or recommendation, and does not express a requirement or impose a duty.
- D. “May” is permissive.

### 2.1.9 Conjunctions

- A. “And” indicates that all connected words or provisions apply.
- B. “Or” indicates that the connected words or provisions may apply singly or in any combination.
- C. “Either [...] or” indicates that the connected words or provisions apply singly, but not in combination.

### 2.1.10 Common Abbreviations

The following are abbreviations used within this Ordinance:

- A. “DBH” is an abbreviation for “diameter at breast height.”

- B.** “GFA” is an abbreviation for “gross floor area.”
- C.** “MAX” is an abbreviation for “maximum.”
- D.** “MIN” is an abbreviation for “minimum.”
- E.** “MPH” is an abbreviation for “miles per hour.”
- F.** “N/A” is an abbreviation for “not applicable.”
- G.** “SF” is an abbreviation for “square feet.”
- H.** “TDM” is an abbreviation for “Transportation Demand Management.”
- I.** “VPD” is an abbreviation for “vehicles per day.”
- J.** “VLR” is an abbreviation for “visible light reflectance.”
- K.** “VLT” is an abbreviation for “visible light transmittance.”

### 2.1.11 Gender

Words denoting one gender apply to all genders.

### 2.1.12 Number

The singular includes the plural and vice versa.

### 2.1.13 Tense

The present tense includes the past and future tenses, and the future tense includes the present.

## 2.2 GLOSSARY OF TERMS

For the purposes of this Ordinance, the following terms have the following meanings:

**Accessory Structure.** A structure that is located on the same site with a principal building, and is incidental and subordinate to the principal building.

**Accessory Use.** A use located on the same site as the principal use, and is incidental and subordinate to the principal use.

**Addition.** Any construction that increases the size of a structure in terms of site coverage, height, or gross floor area.

**Activation.** The articulation of a facade to contribute to a pedestrian-friendly public realm.

**Alcove.** A recess in a facade, which may enclose a bench, fountain, or sculpture.

**Alley.** A vehicular drive located to the rear of lots providing access to service areas, parking, ancillary structures, or containing utility easements.

**Alteration.** Any construction that changes the size or appearance of a structure.

**Ancillary.** Referring to a structure or use that provides support to the principal structure or use.

**Appeal.** A means for obtaining review of a decision, determination, order, or failure to act.

**Applicant.** A property owner, a person holding an option or contract to purchase a property, or any other person authorized in writing to act for such persons, who submits an application under the provisions of this Ordinance.

**Articulation.** The elements in the massing of a building, which establish character and visual interest.

**Avenue.** A thoroughfare of high vehicular capacity and low speed, that is often a short distance connector between neighborhood centers or an approach to a civic building.

**Average Ground Level.** The mean ground level at the four principal corners of the subject structure, or as determined by the Zoning Administrator in the case of an irregularly shaped structure footprint.

**Backlight.** For an exterior luminaire, lumens emitted in the quarter sphere below, horizontal, and in the opposite direction of the intended orientation of the luminaire.

**Bay Window.** A window that projects outward from a structure that does not rest on the foundation or on the ground.

**Belt Course.** A design element aligned horizontally along a building wall, typically a continuous row or layer of stones, tiles, bricks, shingles, or similar materials. Also called a string course or band course.

**Block.** All contiguous lots, passages, and alleys, bounded by thoroughfares, railroad rights-of-way, water bodies, or public parks.

**Block Face.** The aggregate of all the lots on one block side between two intersections.

**Block Length.** The length of one block side.

**Block Perimeter.** The aggregate of all block side lengths of a block.

**Block Side.** The edge of a block adjacent to a thoroughfare, water body, railroad right-of-way, or public park.

**Blue Roof.** A non-vegetated roof design that is intended to detain rainfall or snowmelt, typically to manage stormwater or store and reuse water.

**Boulevard.** A long-distance thoroughfare that traverses an urbanized area and is designed for high vehicular capacity and moderate speed.

**Buffer Yard.** That portion of a site with landscape plantings, fences, and/or other components used to mitigate conflicts between incompatible uses.

**BUG Rating.** A luminaire classification system, developed by the Illuminating Engineering Society

of North America (IES), that classifies backlight (B), uplight (U), and glare (G).

**Building Type.** A category of building determined by function, placement on the lot, and configuration.

**By Right.** The characterization of a proposal or component of a proposal as being in compliance with this Ordinance, and which may be processed administratively, without public hearing.

**Caliper.** The diameter of a tree trunk as measured six inches above the root collar, which is at the base of the tree where the tree's roots join the trunk.

**Centerline.** The center of a right-of-way.

**Chamfered Corner.** A building corner which is cut back to a diagonal in order to create a location for the door of a commercial establishment.

**Change of Use.** A change in the purpose or function of a structure or land from one use to another.

**Co-Location, Wireless Communications.** Placement of one or more wireless communications antennas on a common antenna-supporting structure by two or more different wireless communication service providers. Co-location does not describe a situation in which two or more service providers independently place equipment on a single site.

**Color Rendering Index (CRI).** A quantitative measure of the ability of a light source to reproduce the colors of various objects faithfully in comparison with an ideal or natural light source, as determined by the International Commission on Illumination (CIE). The best possible rendition of colors is specified by a CRI of 100, while the poorest rendition is specified by a CRI of 0.

**Common Wall.** A wall shared by more than one building at the interior side or rear lot line. Also called a party wall.

**Comprehensive Plan.** The materials, written and/or graphic, including maps, charts, studies, resolutions, reports, and other descriptive materials that identify the goals, objectives,

principles, guidelines, policies, standards, devices, and instruments for the immediate and long-range protection, enhancement, growth, and development of the City of Buffalo, which have been adopted and may be amended by the City in accordance with the General City Law.

**Contiguous.** To share a common lot line or zone boundary without being separated by a right-of-way.

**Cornice.** A projection aligned horizontally along and crowning a building wall, door, window, or other opening in the building wall.

**Critical Root Zone.** The area at the base of a tree that extends from the trunk to the drip line, or to a distance of one and one-half feet per inch of diameter at breast height (DBH), whichever is greater.

**Curb Level.** The mean level of the top surface of the curb adjoining a lot. On corner lots, curb level is the average of the mean levels of the adjoining curbs on intersecting rights-of-way. On through lots, curb level is determined separately for each right-of-way frontage to a distance midway between such rights-of-way.

**Curbline.** A line formed by the face of the existing curb or, in its absence, the outer edge of the shoulder, along which curbing is or may be located. The curbline is the boundary between the vehicular way and pedestrian way, if separated.

**Desire Line.** The shortest or most easily navigated pedestrian route between an origin and destination. Also called a desire path.

**Diameter at Breast Height (DBH).** The diameter of a tree trunk as measured four and one-half feet above ground level, typically used to measure the size of established trees.

**Drive Aisle.** A designated travel way within a parking lot or parking structure used to provide vehicular ingress and egress between parking spaces and a driveway.

**Driveway.** A vehicular lane within a lot, or shared between two or more lots, typically providing access to a garage or other parking area.

**Dwelling.** A building that contains one or more dwelling units used, intended, or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.

**Dwelling Unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**Easement.** A grant of one or more of the property rights of land by the property owner to, or for the use by, the public or another person or entity.

**Eave.** The junction of a building wall and an overhanging roof.

**Ecosystem Services.** The benefits for human beings that arise from healthily functioning ecosystems. Examples of benefits include erosion control, natural hazard regulation, carbon sequestration, water purification, climate regulation, pollination, recreation and tourism, and aesthetic and scenic benefits.

**Electronic Nicotine Delivery System.** A personal electronic device that aerosolizes liquid or gel containing nicotine, flavorings, or other constituents, and produces an emission which may be absorbed or exhaled by the user. This does not include FDA or State approved delivery devices when used as intended for its approved purpose.

**Encroachment.** Any structure or structural element that extends into a required yard or public right-of-way.

**Established Tree.** Any tree with a diameter at breast height of six inches or more.

**Expression Line.** A design element aligned horizontally along a building wall, typically a continuous row or layer of stones, tiles, bricks, shingles, or similar materials. Also called a belt course, string course, or band course.

**Exterior Insulation and Finish System (EIFS).** A non-load-bearing, exterior wall cladding system that consists of an insulation board attached either adhesively or mechanically, or both, to the substrate; an integrally reinforced base coat; and a textured protective finish coat.

**Facade.** The exterior wall of a building.

**Facade, Corner Side.** The exterior wall of a building that faces the corner side lot line.

**Facade, Front.** When facing a thoroughfare, the exterior wall of the building that faces the front lot line. When facing a private right-of-way, parking lot, or common area, and not facing a thoroughfare, the exterior wall of the building that contains the main entrance from the private right-of-way, parking lot, or common area. For waterside lots, the exterior walls of the building that face the front lot line and the water body. When facing only an alley or passage, the exterior wall of the building that faces the alley or passage. When set within a plaza, all exterior walls of the building that face the plaza.

**Facade, Interior Side.** The exterior wall of a building that faces the interior side lot line.

**Facade, Rear.** The exterior wall of a building that faces the rear lot line.

**Facade, Waterside.** An exterior wall of a building that faces a water body.

**Family.** Any number of individuals related by blood, marriage, or adoption; or up to four individuals not related by blood, marriage, or adoption living together; or more than four individuals not related by blood, marriage, or adoption living together and who meet the criteria for a functional and factual family equivalent.

**Family, Functional And Factual Equivalent.** A group of unrelated individuals living together and functioning together as a traditional family. In determining whether or not a group of unrelated individuals comprise a functional and factual family equivalent, a petition will be presented before the Zoning Board of Appeals,

which will consider, among other things, the following factors:

- A.** Whether the occupants share the entire dwelling unit or act as separate roomers.
- B.** Whether the household has stability akin to a permanent family structure. The criteria used to determine this test may include the following:
  - 1.** Length of stay together among the occupants in the current dwelling unit or other dwelling units.
  - 2.** The presence of minor, dependent children regularly residing in the household.
  - 3.** Proof of sharing expenses for food, rent or ownership costs, utilities, and other household expenses.
  - 4.** Common ownership of furniture and appliances among the members of the household.
  - 5.** Whether the household is a temporary living arrangement or a framework for transient living.
  - 6.** Whether the composition of the household changes from year to year or within the year.
  - 7.** Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.

**Fence.** Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

**Fence, Open.** A fence constructed so that more than 50% of the fence surface consists of regularly distributed apertures.

**Fence, Solid.** A fence that conceals all materials stored and operations conducted behind it from view on adjoining lots or rights-of-way. A chain link fence with slats is not considered a solid fence.

**Fenestration.** The openings in a structure, including windows and doors, but not including loading berths and entries for parking. Fenestration includes frames, mullions, muntins, vents, and other elements integral to a window or door unit.

**Formal.** A design tending to the regular, rectilinear, geometrical, and repetitive.

**Frontage.** The area of a lot between a building facade and a right-of-way line inclusive of its built and landscape components.

**Frontage Line.** A lot line that coincides with a right-of-way line or waterfront setback line that defines the public realm.

**Gallery.** A covered pedestrian area abutting the side of a building on the ground floor which may provide access along one or more sides of a building.

**Glare.** Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

**Glazing.** A component of a window or wall made of glass.

**Grade.** Ground level, or the elevation at any given point.

**Green Infrastructure.** The multifunctional, interconnected network of open space and natural features such as greenways, wetlands, parks, forest preserves, and areas of native plant vegetation, that naturally manages stormwater, reduces flooding risk, and improves water quality. The term green infrastructure is often adapted to refer to products, technologies, and practices that use natural systems, or engineered systems that mimic natural processes.

**Green Roof.** A vegetated roof design that is explicitly designed to absorb rainfall or snowmelt, typically to manage stormwater, mitigate the heat island effect, provide habitat for urban wildlife, or offer leisure and recreational space for building occupants.

**Ground Floor.** The story of a building closest to the curb level.

**Gross Floor Area.** The sum of the gross horizontal areas of all the floors of a building, measured from the exterior faces of exterior walls, or from the centerline of party walls separating two buildings. Gross floor area does not include unoccupiable space, within a basement or attic, per the New York State Uniform Fire Prevention and Building Code.

**Gross Trailer Weight Rating (GTWR).** The total mass of a road trailer that is loaded to capacity, including the weight of the trailer itself, plus fluids, and cargo, that a vehicle is rated to tow by the manufacturer.

**Gross Vehicle Weight Rating (GVWR).** The maximum operating weight/mass of a vehicle as specified by the manufacturer, including the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers, and cargo, but excluding that of any trailers.

**Highway.** A public right-of-way that is designated as a part of the interstate or federal-aid primary highway system as of June 1, 1991, or any public right-of-way which is or becomes a part of the National Highway System.

**Hookah.** A smoking pipe consisting of one or more tubes connected to a container of water or other liquid through which smoke is drawn and cooled. Hookahs can be used to smoke both tobacco and non-tobacco products.

**Infiltration.** The process of percolating stormwater into the subsoil.

**Initial Lamp Lumens.** The sum of the initial lamp lumens for all lamps within an individual luminaire, multiplied by the luminaire efficiency, as determined by the luminaire manufacturer.

**Initial Luminaire Lumens.** The sum of the initial luminaire lumens for all luminaires.

**Intersection.** The area contained within the grid created by extending the curblines of two or more rights-of-way at the point at which they cross each other.

**Lamp.** A generic term for a source of light, often called a bulb or tube. Examples include incandescent, fluorescent, neon, high-intensity discharge (HID), and low pressure sodium (LPS) lamps, as well as light-emitting diode (LED) modules and arrays.

**Land Development Activity.** Any human activity which involves soil disturbance.

**Landscape.** Open areas of the private or public realms, which are composed primarily of living vegetation.

**Lane.** A narrow, slow movement thoroughfare, typically containing one travel lane.

**Light Pollution.** Any adverse effect of artificial light including, but not limited to, glare, light trespass, skyglow, energy waste, compromised safety and security, and impacts on the nocturnal environment.

**Light Trespass.** Light that falls beyond the property that it is intended to illuminate.

**Lighting Zone.** A system corresponding to neighborhood, district, and corridor zones, establishing legal limits for lighting.

**Loading Area.** An area in which goods and products are moved on and off a vehicle, including the berth, apron, and maneuvering area.

**Loading Berth.** A space within a loading area that is used for the temporary parking of a commercial vehicle for the loading or unloading of goods or materials.

**Lot.** A designated parcel, tract, or area of land established by a plat or as otherwise permitted by law, to be used or developed. Also referred to as a parcel or lot of record.

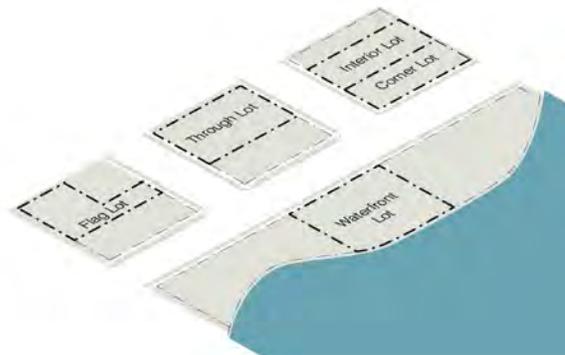
**Lot, Corner.** A lot situated at the junction of two intersecting thoroughfares. This includes a lot that is situated at the terminus of a dead-end thoroughfare or T-intersection.

**Lot, Flag.** A lot that has access to a public right-of-way by means of a narrow strip of land.

**Lot, Interior.** A lot other than a corner lot or through lot.

**Lot, Through.** A lot that abuts two nonintersecting public thoroughfares.

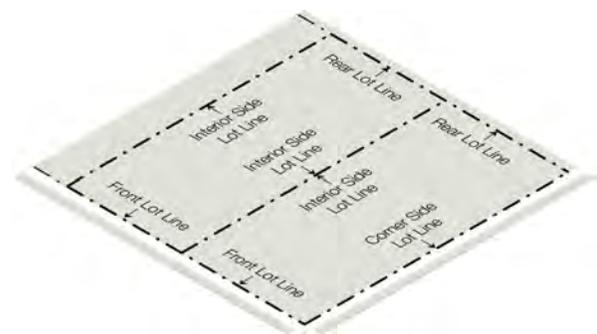
**Lot, Waterfront.** A lot that abuts a water body.



**Lot Line.** The boundary that legally and geometrically demarcates a lot.

**Lot Line, Corner Side.** In the case of a corner lot, a lot line that abuts a thoroughfare that is not a front lot line.

**Lot Line, Front.** In the case of an interior lot, the lot line that abuts a thoroughfare. In the case of a corner lot, the lot line that abuts the principal thoroughfare. In the case of a through lot, both lot lines that abut a thoroughfare. In the case of an interior lot that abuts an alley or passage, but does not abut a thoroughfare, the lot line that abuts the alley or passage. In the case of a lot which abuts a Pedestrian Priority Frontage (PPF) on the Zoning Map, each lot line that abuts a PPF. In the case of a lot which abuts a lot in the D-OS zone, all lot lines which abut the lot in the D-OS zone.



**Lot Line, Interior Side.** A lot line that connects a front lot line and rear lot line, and does not abut a thoroughfare.

**Lot Line, Rear.** A lot line that is opposite the front lot line, and does not abut a thoroughfare. Where the side lot lines meet at a point, the rear lot line is a line that is five feet in width, within the lot and connecting the side lot lines, that is parallel or radial to the front lot line.

**Lot Line, Side.** A corner side lot line or interior side lot line.

**Lumen.** The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from watt, a measure of power consumption).

**Luminaire.** The complete lighting unit (fixture), consisting of a lamp, or lamps and ballasts, when applicable, together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

**Luminaire, Fully Shielded.** A luminaire constructed and installed in such a manner that all light emitted by the luminaire, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane through the luminaire's lowest light-emitting part.

**Luminaire Mounting Height.** The height of the center of a luminaire above ground level.

**Luminaire, Partly Shielded.** A luminaire with opaque top and translucent or perforated sides, designed to emit most light downward.

**Luminaire, Shielded Directional.** A luminaire that includes an adjustable mounting device allowing aiming in any direction and contains a shield, louver, or baffle to reduce direct view of the lamp.

**Luminaire, Unshielded.** A luminaire capable of emitting light in any direction.

**Luminance.** The light that is emitted by or reflected from a surface measured by means of a luminance meter. Luminance is typically

measured by nits, or luminous intensity (candelas) per unit area (square meters).

**Mean High Water Line.** The average elevation of all high waters recorded at a particular point or station over a considerable period of time, as determined by the U.S. Army Corps of Engineers. Also called the shoreline.

**Mullion.** A vertical element that forms a division between units of a window or door.

**Multiway Boulevard.** A variation of a boulevard characterized by a central roadway for through traffic and parallel lanes accessing abutting property, parking, and pedestrian and bicycle facilities.

**Muntin.** A bar or rigid supporting strip between adjacent panes of glass.

**Nationally Recognized Testing Laboratory (NRTL).** A testing facility recognized by the Occupational Safety and Health Administration (OSHA) as primarily private sector organizations that provide product safety testing and certification services to manufacturers.

**Naturalistic.** A design tending to an irregular, curvilinear, or episodic composition, typically designed to preserve natural features or topography.

**Neighborhood Center.** An area of focused community activity acting as a social and economic center of a neighborhood and usually defining the approximate center of a pedestrian shed.

**Nit.** A photometric unit of measurement referring to luminance. One nit is equal to one candela per square meter (cd/m<sup>2</sup>).

**Olmsted Park and Parkway System, Historic.** The portions of the Frederick Law Olmsted designed Park and Parkway system listed on the National Register of Historic Places. These include the Delaware Park-Front Park System, Cazenovia Park-South Park System, Martin Luther King, Jr. Park, and Riverside Park.

**Ornamental Tree.** A small tree, typically less than 35 feet in height when mature, that is utilized and

valued for the aesthetic appearance, color, and/or texture of its flowers, fruits, foliage, bark, or form.

**Outbuilding.** A building that is typically smaller than and located in front of the main building on a site. Outbuildings are typically used for retail and benefit from the large draw and traffic generated by a larger retail use on the site.

**Overlay Zone.** A zone which is applied over one or more underlying zones, establishing additional or stricter standards and criteria for covered properties in addition to those of the underlying zone. An overlay zone is introduced to address special situations or achieve specific goals.

**Parapet.** A low wall or protective barrier that extends vertically above the roof surface of a building or other structure.

**Parking Row.** A group of contiguous parking stalls in a parking lot or parking structure, organized as either a single row or double row.

**Parking Stall.** A designated parking space in a parking lot, parking structure, or driveway.

**Party.** A person, firm, association, organization, partnership, company, or corporation.

**Passage.** A pedestrian connector passing between or through buildings, providing shortcuts through long blocks, and sometimes connecting rear parking areas with frontages.

**Path.** A pedestrian connector traversing a park or naturalized area, and connecting directly with an adjacent sidewalk network.

**Pedestrian Priority Frontage (PPF).** A frontage line, mapped in an N-1D or N-1C zone, which is regulated to achieve an elevated standard for pedestrian quality.

**Pedestrian Shed.** An area covered by a five-minute walk or approximately one-quarter mile, measured by actual walking distance along public rights-of-way from a destination.

**Pedestrian Way.** The public right-of-way, which typically includes the planting area and sidewalk,

from the back of the curb to the front property line of adjoining parcels.

**Person.** An individual, or a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind, or a partnership, firm, association, corporation, or other entity of any kind. Person also includes a governmental entity or an instrumentality or unit of a governmental entity.

**Pervious.** Being permeable; having the quality of allowing the infiltration of surface water into the soil.

**Plat, Final.** A map of a land division and/or consolidation prepared in a form suitable for filing a record with necessary affidavits, dedications, and acceptances.

**Plat, Preliminary.** A map of a proposed land subdivision, drafted for review of the proposed land division and/or consolidation.

**Practicable.** Capable of being done after taking into consideration cost, time, technology, and logistics in light of overall project purposes.

**Principal Building.** A building that contains one or more principal uses.

**Principal Use.** The main or primary use or uses conducted on a lot or located within a building, or within a portion of a building which is separated structurally from other uses within the same building, not including accessory uses as defined by this Ordinance.

**Public Park.** Any property designated, dedicated, or developed by or on behalf of a government entity for park or open space use, including passive and active forms of recreation.

**Public Realm.** All exterior places, linkages, and built form elements that are physically accessible regardless of ownership. The public realm includes, but is not limited to, rights-of-way, greens, squares, plazas, courtyards, paths, sidewalks, and transit stations.

**Radial.** Arranged like rays or the radii of a circle; diverging in lines from a common center.

**Right-of-Way.** The total width of any land reserved or dedicated as a thoroughfare, alley, pedestrian or bicycle way, railway, waterway, or utility line.

**Right-of-Way Line.** The line dividing a lot from a right-of-way.

**Roof Overhang.** The overhead cantilever of an architectural element beyond the building wall.

**Setback.** The distance between a structure and an adjacent lot line.

**Setback, Waterfront.** The distance between a structure and the mean high water line of an adjacent water body.

**Setback Line.** A line parallel to a lot line at a distance from the lot line equal to the minimum required distance for the setback.

**Setback Line, Waterfront.** A line parallel to the mean high water line of a water body at a distance from the mean high water line equal to the minimum required distance for the setback.

**Shade Tree.** A large deciduous tree, typically greater than 35 feet in height when mature, that is utilized for its broad leaf canopy and ability to cast a shadow upon a large area.

**Shore Public Walkway.** A linear public access area running alongside the shore.

**Shoreline.** Refer to Mean High Water Line.

**Shoreline Buffer.** A land area contiguous and parallel to the shore, consisting of native or naturalized trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream, river, lake, or coastal estuarine area.

**Shrub.** A woody deciduous or evergreen plant, smaller than a tree, consisting of several stems from the ground or small branches near the ground.

**Sidewalk Cafe.** An area within a public right-of-way that provides an outdoor seating area, typically for a tavern or restaurant use, on a seasonal basis.

**Sign.** Any device visible from a public place whose purpose and design is to convey

messages by means of words or images. A sign is not used to describe public art that contains no commercial messages.

**Sign Copy.** The graphic content or message of a sign.

**Sign Face.** The surface upon, against, or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, non-structural thematic or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

**Sign, Off-Premise.** A permanent sign erected, maintained, or used for the purpose of the display of messages not related to the use of, products sold on, or the sale or lease of, the property on which it is displayed. Also called a billboard.

**Sign, On-Premise.** A sign erected, maintained, or used for the purpose of the display of messages relating to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

**Site.** The ground area designated as a zoning lot, which may be categorized as a lot of record, multiple lots of record, or a portion of a lot of record.

**Siting.** The placement of any built or landscape component on a lot.

**Soil Disturbance.** Any activity that moves or changes the surface of land, including, but not limited to, clearing and grubbing, grading, excavation, embankments, land development, and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials. For the purposes of this Ordinance, soil disturbance does not include agricultural activity, landscape and horticultural activities, routine maintenance activities, excavation of burial plots, or the re-striping or milling and repaving of paved areas, sidewalks, parking lots, etc., where the sub-base is not exposed during the milling process.

**Solar Reflectance Index (SRI).** A measure of the ability of a constructed surface to reflect solar

heat, as shown by a small temperature rise. The measure utilizes a scale from 0 to 100 and is defined so that a standard black surface is 0 and a standard white surface is 100.

**Split Lot.** A lot located in two or more zones and divided by a zone boundary. In such cases, zone standards are applied separately for each portion of the lot.

**Stacking Space.** A queuing space designated as a waiting area for vehicles patronizing a drive-through establishment.

**Stepback.** A recess in the upper stories of a building from the lower stories, designed to reduce the building's mass and allow more light and air to reach the ground.

**Stormwater.** Rainwater, surface runoff, snowmelt, and drainage.

**Stormwater Management.** The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources, and the environment.

**Stormwater Pollution Prevention Plan (SWPPP).** A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**Story.** A level within a building, constructed and designed to support occupancy as defined by the New York State Uniform Fire Prevention and Building Code.

**Street.** A local thoroughfare of low speed and capacity.

**Structure.** Anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having permanent location on the ground.

**Substantial Facade Alteration.** Any facade alteration which involves a change in the location or dimensions of windows or doors or the replacement of any exterior facade material with a different type of facade material. Substantial facade alteration does not include routine repairs

or maintenance, or the replacement-in-kind of any facade material or other component of a facade.

**Substantial Renovation.** Any reconstruction, rehabilitation, or other improvement of a structure, the cost of which will equal or exceed 50% of the structure's assessed value at the time of application for such a project. This term does not, however, include any project for improvement of a structure to correct violations of state or local health, sanitary, or building code specifications which have been identified by a code enforcement official and which are the minimum necessary to correct such violations.

**Sustainable Sites Initiative.** An interdisciplinary effort by the American Society of Landscape Architects, the Lady Bird Johnson Wildflower Center at the University of Texas at Austin, and the United States Botanic Garden to create voluntary national guidelines and performance benchmarks for sustainable land design, construction, and maintenance practices.

**Target Speed.** The speed at which vehicles should operate on a thoroughfare in a specific context, consistent with the level of multimodal activity generated by adjacent land uses, to provide both mobility for motor vehicles and a safe environment for pedestrians and bicyclists.

**Thoroughfare.** A right-of-way, typically publicly-owned, serving primarily as a means of vehicular and pedestrian travel, providing access to abutting properties, and which may also be used to provide space for bicycle facilities, stormwater management facilities, shade trees, and utilities. Alleys and passages are not considered thoroughfares.

**Thoroughfare, Principal.** The thoroughfare that is clearly associated with the front facades of principal buildings along a block face. Where a corner lot abuts more than two thoroughfares, the Zoning Administrator may determine that all thoroughfares, except for one, are principal thoroughfares, if he or she makes a written finding that such determination is in the interest of protecting the quality of the public realm. If the position of the principal thoroughfare in relation to

a corner lot is unclear, the Zoning Administrator will make a determination on this matter, taking into account the following factors:

- A. The orientation of principal buildings at the intersection.** Where principal buildings at the intersection are oriented toward one of the thoroughfares, this thoroughfare will generally be considered the principal thoroughfare.
- B. The width of the lot line.** Among the lot lines that abut the thoroughfares, the lot line with the narrowest width will generally be associated with the principal thoroughfare.
- C. The width of the thoroughfares.** The widest thoroughfare, or the thoroughfare with the widest pedestrian way, will generally be considered the principal thoroughfare.
- D. Pedestrian counts.** The thoroughfare with the highest weekday, peak-hour pedestrian counts will generally be considered the principal thoroughfare.

**Thoroughfare, Secondary.** A thoroughfare that is not a principal thoroughfare, and is clearly associated with the corner side facades of buildings.

**Traffic Calming Measures.** The combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter motorist behavior, and improve conditions for non-motorized street users.

**Traffic Control Devices.** All signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

**Transparency.** The area of a facade composed of fenestration, typically measured as a percentage.

**Transportation Management Association (TMA).** An organized group, often legally constituted with a financial dues structure, applying carefully selected approaches to achieving mobility and air quality goals within a designated area.

**Turret.** A small tower that projects vertically and/or horizontally from a structure.

**Uplight.** For an exterior luminaire, flux radiated in the hemisphere at or above the horizontal plane.

**Use.** The purpose for which a structure or land or part thereof is used, occupied, or intended to be used or occupied, and any activity, occupation, business, or operation carried out on land or in a structure.

**Valance.** A short drapery, decorative board, or metal strip mounted across the bottom of an awning to conceal structural fixtures.

**Vehicles Per Day (VPD).** The average number of vehicles to use a right-of-way, or a segment of a right-of-way, per day. VPD may be adjusted for the day of the week, seasonal variations, and/or vehicle classification. Also referred to as Annual Average Daily Traffic (AADT).

**Vehicular Way.** The public right-of-way between curbs, including parking lanes and travel lanes for personal vehicles, commercial vehicles, transit vehicles, and bicycles. Medians, turn lanes, transit stops and exclusive transit lanes, curb and gutter, and loading zones are included in the vehicular way.

**Visible Light Reflectance (VLR).** The percent of total visible light that is reflected by a glazing system. The lower the number, the less visible light reflected.

**Visible Light Transmittance (VLT).** The percent of total visible light that is transmitted through a glazing system. The lower the number, the less visible light transmitted.

**Water body.** A discrete and significant element of surface water such as a lake, river, stream, pond, reservoir, or canal, as defined by the United States Geological Survey (USGS).

**Wind Turbine Hub Height.** The height of the center of the wind turbine rotor as measured from ground level. For a vertical axis wind turbine, the hub height is the height of the equator plane.

**Wind Turbine Rated Power Output.** The power output of a wind turbine at a constant hub height wind speed of 25 mph.

**Wind Turbine Rotor.** The rotor converts the wind energy into a rotation and consists of multiple rotor blades attached to a hub.

**Wind Turbine Total System Height.** The height above ground level of the fixed portion of the tower, plus the wind turbine and extending to the uppermost reach of the rotor.

**Window Sill.** The horizontal member at the base of a window opening, particularly the ledge formed by such a member.

**Yard.** An unoccupied area that is open and unobstructed from the ground, with the exception of permitted encroachments, on the same lot as a principal building.

**Yard, Corner Side.** The area of the lot that extends from the front yard line to the rear lot line, between the corner side lot line and the corner side yard line.

**Yard, Front.** The area of the lot that extends between interior side lot lines or between the corner side lot line and the interior side lot line, between the front lot line and the front yard line.

**Yard, Interior Side.** The area of the lot that extends from the front yard line to the rear yard line, between the interior side lot line and the interior side yard line.

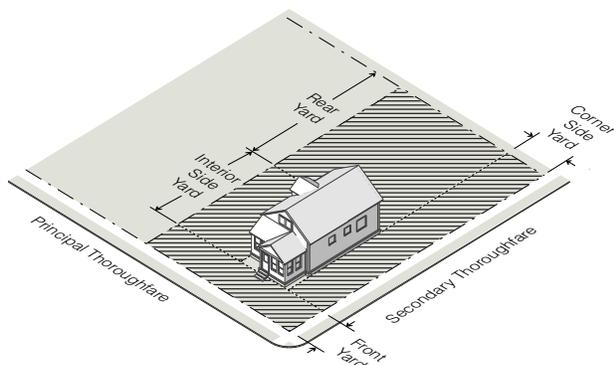
**Yard, Rear.** The area of the lot that extends between interior side lot lines or between the corner side yard line and the interior side lot line, between the rear lot line and the rear yard line.

**Yard, Required.** The area of a lot measured from an adjacent lot line, or the mean high water line in the case of a required waterfront yard, that must be maintained clear of permanent structures, with the exception of permitted yard encroachments.

**Yard, Waterfront.** The area of a waterfront lot that extends from the mean high water line of the adjacent water body to the waterside facade of the principal building.

**Yard Line.** A line drawn parallel or radial to the lot line at a distance equal to the depth of the principal building facade which is oriented to that lot line.

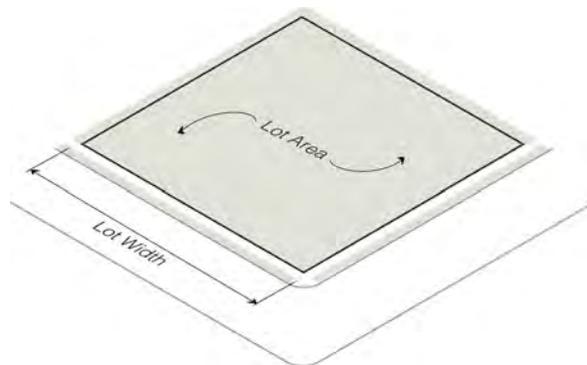
**Zone.** A geographical area within which this Ordinance governs building form and land use. Zones are designated on the Zoning Map.



## 2.3 MEASUREMENTS AND EXCEPTIONS

### 2.3.1 Lot Dimensions

- A. Lot Area.** Lot area is measured as the total area contained within the boundary lines of a lot, excluding publicly dedicated and accepted rights-of-way.
- B. Lot Width.** Lot width is measured as the horizontal distance between side lot lines along the front lot line, with the following exceptions:
1. On a flag lot, only the flag portion of the lot is used to measure lot width.
  2. On a lot accessed by an access easement, the easement is not used to measure lot width.
  3. On a lot which is on a cul-de-sac or which has a curved front lot line, the setback line is used to measure lot width.



### 2.3.2 Lot Coverage

- A. Building Coverage.** Building coverage is measured by dividing the total area of building footprints of all principal and accessory structures by the total lot area, with the following exceptions:
1. On a flag lot, only the flag portion of the lot is used in the calculation of lot coverage.
  2. On a lot accessed by an access easement, the easement is not used in the calculation of lot coverage.

- B. Impervious Coverage.** Impervious coverage is measured by dividing the total area of the building footprints of all principal and accessory structures and all paved surfaces of the site, by the total lot area, with the following exceptions:

1. When semi-pervious paving is used, it is calculated at a reduced percentage of impervious coverage, as follows:
  - a. Pervious concrete and open grid paving systems are calculated as 50% impervious surface, provided that no barrier to infiltration is installed beneath the material. Open grid pavers must be installed on a sand base, without an impervious liner, to qualify.
  - b. Other types of pervious surfaces, such as permeable pavers, porous asphalt, or gravel-crete, are credited based upon field performance data and coefficients of permeability provided by the manufacturer.
2. When a green or blue roof is installed, the area of the building that includes the green or blue roof is calculated as 50% impervious surface.

### 2.3.3 Building Setbacks

- A. Required Yards.** A required yard is the area of a lot that must be maintained clear of permanent structures, with the exception of the following permitted encroachments:
1. **Accessory Structures.** Accessory structures may encroach upon required yards, subject to the limitations of Section 6.2.
  2. **Building Features.** Certain building features may encroach upon required yards, so long as they are located at least 18 inches from all lot lines and meet any additional criteria, as follows:
    - a. An accessibility ramp may encroach upon any required yard to the extent necessary to perform its proper function.

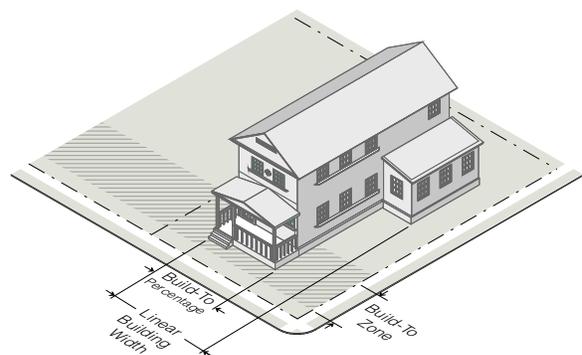
- b. An air conditioner window unit may encroach a maximum of 18 inches upon any required yard.
  - c. An awning or canopy may encroach up to eight feet upon any required yard.
  - d. A balcony may encroach up to eight feet upon any required yard.
  - e. A bay window or turret that is less than ten feet wide may encroach up to three and one-half feet upon any required yard.
  - f. A building entrance that is less than ten feet wide may encroach up to three and one-half feet upon any required yard.
  - g. A chimney, pre-fabricated chimney, flue, or smokestack may encroach up to four feet upon any required yard.
  - h. Any ornamental lighting, lamp posts, and lawn decorations, such as benches, statues, birdbaths, and sculptures, may encroach upon any required yard.
  - i. A porch or stoop may encroach up to eight feet upon any required yard, so long as it remains unenclosed.
  - j. A porte-cochere may encroach upon required interior side and rear yards.
  - k. A sill, belt course, cornice, eave, roof overhang, or similar architectural feature may encroach up to three feet upon any required yard.
3. **Fences and Walls.** Fences and walls may encroach upon required yards, subject to the limitations of Section 7.2
  4. **Pedestrian and Cyclist Facilities.** Pedestrian or cyclist facilities, such as sidewalks, multi-use paths, and bicycle parking, may encroach upon required yards.
  5. **Signs.** Signs, with the exception of off-premise signs, may encroach upon required

yards, subject to the limitations of Article 9.

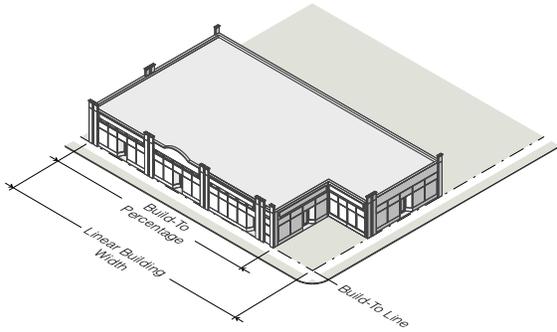
6. **Utilities.** Utility infrastructure located underground and structures accessory to utilities, such as hydrants, manholes, transformers, poles, transmission lines, and cabinet structures, may encroach upon required yards, except that such utility infrastructure, when located aboveground, may be located in front yards only where locating such structures in alternate locations is not practicable.
7. **Vehicle Parking.** Vehicle parking, including driveways and drive aisles, may encroach upon any required yard except for a required waterfront yard, subject to the limitations of Section 8.3.

**B. Build-To Percentage.** The build-to percentage specifies the percentage of the width of the building facade, measured along the adjacent right-of-way line, which must be located within a build-to zone or along a build-to line.

1. A build-to zone is an area of the lot bounded by interior side and/or corner side lot lines and two imaginary lines, which are parallel or radial to a right-of-way line and correspond to the minimum setback and maximum setback for the facade of a principal building.



2. A build-to line is an imaginary line parallel to a right-of-way line, created when the minimum setback and maximum setback for building facades are the same number.



3. The following are exceptions to the build-to percentage:
- a. An arcade, forecourt, or plaza frontage is counted as meeting the required build-to percentage.
  - b. An alcove, entry door recess, or recessed upper-story balcony up a maximum of 15 feet in width is counted as meeting the required build-to percentage. In the N-1D and N-1C zones, a ground-floor lobby entrance to a tower building type may be recessed up to a maximum of one-third times the width of the facade.
  - c. A chamfered corner or beveled edge of a building, designed to achieve corner visibility at a right-of-way intersection or driveway entrance, is counted as meeting the required build-to percentage, up to a maximum width as is necessary to achieve such corner visibility.
  - d. Facade articulation, such as window or wall recesses or projections, is counted as meeting the required build-to percentage, so long as the variation does not exceed 18 inches of depth or projection.
  - e. An outdoor dining area is counted as meeting the required build-to percentage, so long as the outdoor dining area is created by the recess of only the ground floor of the building facade, and the recess is no greater than 15' in depth from the building facade.

**C. Lot Depth.** Lot depth is measured as the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line of a lot, with the following exceptions:

1. On a flag lot, only the flag portion of the lot is used to measure lot depth.
2. On a lot accessed by an access easement, the easement is not used to measure lot depth.

**D. Established Front Yard Line.** The established front yard line is the mean front yard line of all principal buildings along a block face and which are located in the same zone, except as follows:

1. Where less than 25% of the combined lot widths along a block face consist of lots that are improved with principal buildings, the established front yard line will be determined by the Zoning Administrator.
2. Where one or more adjacent properties, located on the same block face as the subject property, vary from the mean front yard line by at least 10 feet, the established front yard line will be determined by the Zoning Administrator.
3. When determining the established front yard line, the Zoning Administrator must consider the following criteria:
  - a. The established front yard line is consistent with the intended development pattern of the zone.
  - b. The established front yard line is harmonious with adjacent development.
  - c. The established front yard line allows for adequate light and air for the subject property and adjacent properties.

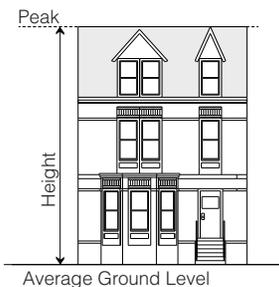
### 2.3.4 Building Height

**A. Building Height, Feet.** When building height is measured by number of feet, building height is measured as the vertical distance from average ground level to:

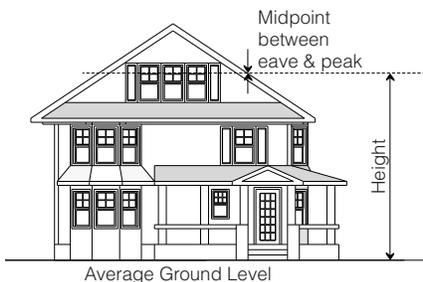
1. The peak of a flat roof.



2. The peak of a gambrel or mansard roof.



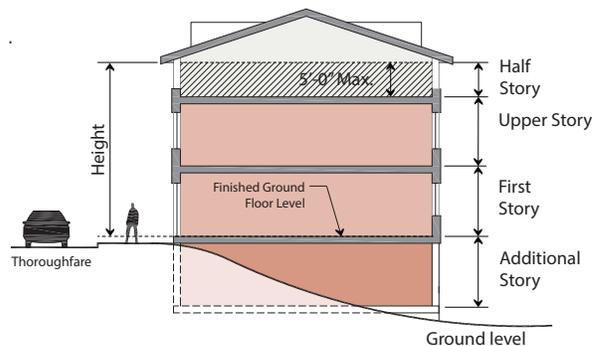
3. The midpoint height between the eaves and the ridge in the case of a pitched roof (gable or hip roof).



**B. Building Height, Stories.** When building height is measured by number of stories, building height is measured as follows:

1. The first story of a structure is measured from the finished ground floor level to the surface of the second floor or, in the case of a one-story building, from the finished ground floor level to the surface of the roof. Each upper story of a structure is measured from the surface of the floor to the surface of the floor above it or, if there is no floor above, from the surface of the floor to the surface of the roof above it.

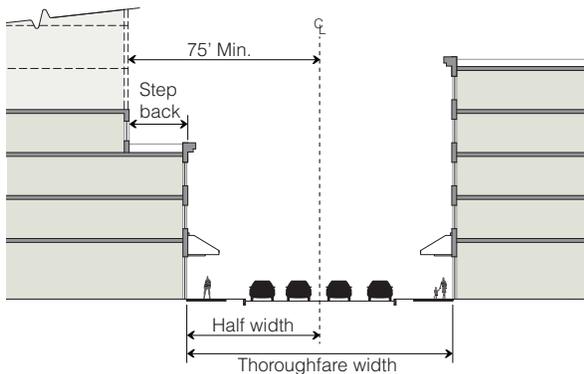
2. When building height allows for half-stories, the half-story is calculated as the space under a sloping roof where the line of intersection of roof decking and exterior wall face is no more than five feet above the top floor level.
3. When a lot slopes downward from the front lot line, additional stories are permitted in addition to the maximum number allowed only on the lower rear portion of the lot.



**C. Building Height, Relative to Thoroughfare Width.** When building height is determined by a ratio relative to the width of the adjacent thoroughfare, building height is measured as follows:

1. The maximum building height is measured from the average ground level to a height that equals a multiple of the total width of the adjacent thoroughfare. If a building fronts upon more than one thoroughfare, the widest thoroughfare is used to determine the height requirement. If a building fronts upon only an alley, the widest thoroughfare adjoining the block is used to determine the height requirement. If a building does not have direct frontage upon a thoroughfare, the thoroughfare to which it has required access via a permanent easement is used to determine the height requirement. If a building fronts upon a public park or navigable body of water, with or without an intermediate public right-of-way, the width of the adjacent right-of-way will be measured as 100 feet for the purpose of determining the height requirement.
2. In the N-1D zone, if the floorplate of the

building is reduced so that above a given level it covers in the aggregate not more than 25% of the lot area, the building above this level may be erected to any height, provided that the distance that it steps back from the adjacent right-of-way line, plus half the width of the right-of-way, equals at least 75 feet.



**D. Building Height Exceptions.** The following are exempt from minimum and maximum building height requirements:

1. Accessory structures, which are governed by Section 6.2.
2. Chimneys, fire escapes, derricks, flues, ventilators, and smokestacks.
3. Cooling towers, grain elevators, gantry cranes, sugar refineries, gasometers, conveyors, and other structures used for a manufacturing or transshipment process.
4. Cupolas, domes, bell towers, minarets, monuments, spires, steeples, belfries, and ornamental towers, so long as they are not intended for occupancy.
5. Dining cars, locomotive cars, shipping containers, and similar structures when repurposed for permanent use and occupancy. This exception applies only to minimum height requirements; maximum height requirements still apply.
6. Bulkheads, elevator enclosures, penthouses for elevators and stairways, skylights, scenery lofts, and water tanks, so long as these

structures occupy no more than 25% of the total area of the roof.

7. Green roofs, blue roofs, and other facilities used to manage stormwater.
8. Parapet walls, limited to a height of five feet.
9. Utilities.
10. Wind farms, subject to the limitations of Section 6.1.9.
11. Wireless communication towers, antennas, and ancillary structures, subject to the limitations of Section 6.1.9.

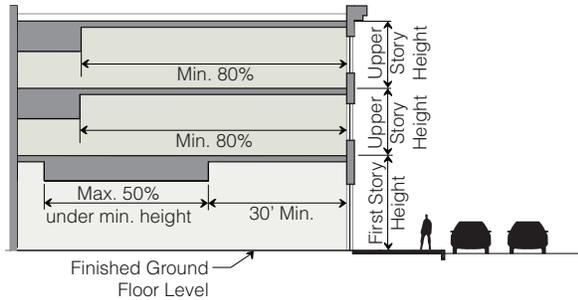
### 2.3.5 Story Height

**A. Finished Ground Floor Level.** Finished ground floor level is measured as the elevation from ground level to the floor level of the first story of the building at the main entrance. The following are exceptions to finished ground floor level requirements:

1. Finished ground floor level minimums are waived for buildings designed to be accessible to persons with disabilities.
2. Finished ground floor level maximums are waived for buildings located in a Special Flood Hazard Area (SFHA), as determined by the Federal Emergency Management Agency (FEMA).

**B. Story Height**

1. Story height is measured from the surface of any floor to the surface of the floor above it or, if there is no floor above, from the surface of the floor to the top of the wall plate.
2. The minimum ground floor story height must be fully met within the first 30 feet of building depth as measured from the front facade. At least 50% of the ground floor must meet the minimum story height requirement.
3. A minimum of 80% of each upper story must meet the minimum upper story height requirements.



### 2.3.6 Transparency

#### A. Transparency

1. When calculating transparency for any facade, the total area of fenestration is included, as follows:
  - a. Ground floor transparency is calculated based on the total facade area located between two feet and eight feet above the finished ground floor level.
  - b. Upper floor transparency is calculated based on the total facade area located between the surface of any floor to the surface of the floor above it or, if there is no floor above, from the surface of the floor to the top of the wall plate.

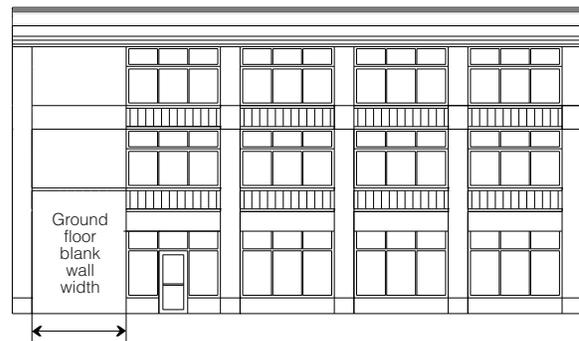


2. For any windows to be included in the transparency calculation, the glazing must meet the following criteria:
  - a. For ground floor glazing, the glazing must have a minimum 60% Visible Light Transmittance (VLT) and no more than 15% Visible Light Reflectance (VLR). The ground floor glazing must remain unobstructed up to a minimum depth of five feet, with the exception of obstructions, such as window signs or

product displays, that do not take up more than 25% of the total window area.

- b. For upper floor glazing, the glazing must have a minimum of 40% VLT and no more than 15% VLR.
3. For any door to be included in the transparency calculation, the door must be part of a main entrance, open to and operable by customers or occupants during business hours in the case of a non-residential use, or operable at any time by occupants in the case of a residential use.

**B. Ground Floor Blank Wall Width.** Ground floor blank wall width is measured as any linear dimension of contiguous building wall on the ground floor that does not contain fenestration.



**C. Ground Floor Window Sill Height.** The ground floor window sill height is measured from the base of the building immediately beneath the window sill to the point where the window sill glazing commences.

### 2.3.7 Pedestrian Access

- A. **Main Entrance.** A main entrance is a principal point of access for pedestrians into a building, prominently visible from the adjacent right-of-way or avenue of approach. To be considered a main entrance, a door must be open to and operable by the general public, for both entering and exiting, during business hours in the case of a non-residential use, or operable at any time by occupants in the case of a residential use. An emergency exit or service entrance is not considered a main entrance.
- B. **Entrance Spacing.** Entrance spacing is measured as the linear distance between the edges of doors along the facade.

# Article 3. Neighborhood Zones

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Neighborhood zones address the various mixed-use, walkable places found throughout the City of Buffalo. Neighborhood zones range in character, function, and intensity, with the N-1 zones addressing the most diverse and intensely developed places (e.g., Downtown and The Larkin District), and the N-4 zones addressing those areas that are the least diverse and intensely developed (e.g., single-family residential areas).

This article addresses form and dimensional standards particular to each neighborhood zone. In the respective sections, the purpose and intent for each zone is described, followed by the allowed building types, which include form and dimensional standards, and finally, a list of optional frontage elements and applicable standards.

## 3.1 ZONE DESCRIPTIONS

### 3.1.1 N-1D DOWNTOWN/REGIONAL HUB



#### A. Purpose

The N-1D zone addresses the core of downtown Buffalo to facilitate development of substantial scale with an intense mix of uses.

#### B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-1D zone:

- Attached House
- Carriage House
- Civic Building
- Commercial Block
- Detached House
- Flex Building
- Loft Building
- Shopfront
- Shopfront House
- Stacked Units
- Tower

#### C. General

All development in the N-1D zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 3.1.2 N-1C MIXED-USE CORE



#### A. Purpose

The N-1C zone addresses mixed-use centers of high intensity, in strategic locations such as on the edges of downtown or proximate to light rail rapid transit, and often featuring mid-rise buildings.

#### B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-1C zone:

- |                    |                   |
|--------------------|-------------------|
| ■ Attached House   | ■ Loft Building   |
| ■ Carriage House   | ■ Shopfront       |
| ■ Civic Building   | ■ Shopfront House |
| ■ Commercial Block | ■ Stacked Units   |
| ■ Detached House   | ■ Tower           |
| ■ Flex Building    |                   |

#### C. General

All development in the N-1C zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 3.1.3 N-1S SECONDARY EMPLOYMENT CENTER



#### A. Purpose

The N-1S zone addresses mixed-use employment centers primarily located along the New York Central Belt Line, often defined by mid-rise and large-footprint industrial structures.

#### B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-1S zone:

- Attached House
- Carriage House
- Civic Building
- Commercial Block
- Detached House
- Flex Building
- Loft Building
- Shopfront
- Shopfront House
- Stacked Units
- Tower

#### C. General

All development in the N-1S zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 3.1.4 N-2C MIXED-USE CENTER



#### A. Purpose

The N-2C zone addresses mixed-use, walkable centers of Buffalo’s most compact neighborhoods, many of which were fully developed before the automobile became prominent.

#### B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-2C zone:

- Attached House
- Carriage House
- Civic Building
- Commercial Block
- Detached House
- Flex Building
- Loft Building
- Shopfront
- Shopfront House
- Stacked Units
- Tower

#### C. General

All development in the N-2C zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 3.1.5 N-2E MIXED-USE EDGE



#### A. Purpose

The N-2E zone addresses transitional areas, typically at the edges of more intense mixed-use centers, in Buffalo's most compact neighborhoods. These areas are defined by a mix of homes and stores.

#### B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-2E zone:

- |                    |                   |
|--------------------|-------------------|
| ■ Attached House   | ■ Loft Building   |
| ■ Carriage House   | ■ Shopfront       |
| ■ Civic Building   | ■ Shopfront House |
| ■ Commercial Block | ■ Stacked Units   |
| ■ Detached House   | ■ Tower           |
| ■ Flex Building    |                   |

#### C. General

All development in the N-2E zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 3.1.6 N-2R RESIDENTIAL



#### A. Purpose

The N-2R zone addresses residential areas adjoining more intensive mixed-use centers, generally defined by compact residential blocks, which occasionally include small mixed use buildings.

#### B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-2R zone:

- Attached House
- Carriage House
- Civic Building
- Commercial Block
- Detached House
- Flex Building
- Loft Building
- Shopfront
- Shopfront House
- Stacked Units
- Tower

#### C. General

All development in the N-2R zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 3.1.7 N-3C MIXED-USE CENTER



#### A. Purpose

The N-3C zone addresses mixed-use, walkable centers of Buffalo’s moderately compact neighborhoods. These neighborhood centers were originally served by Buffalo’s streetcar system, though many developed following the introduction of the automobile.

#### B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-3C zone:

- Attached House
- Carriage House
- Civic Building
- Commercial Block
- Detached House
- Flex Building
- Loft Building
- Shopfront
- Shopfront House
- Stacked Units
- Tower

#### C. General

All development in the N-3C zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 3.1.8 N-3E MIXED-USE EDGE



#### A. Purpose

The N-3E zone addresses transitional areas in Buffalo's streetcar neighborhoods, typically located at the edges of more intense mixed-use centers. These areas are defined primarily by a mix of homes and stores.

#### B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-3E zone:

- Attached House
- Carriage House
- Civic Building
- Commercial Block
- Detached House
- Flex Building
- Loft Building
- Shopfront
- Shopfront House
- Stacked Units
- Tower

#### C. General

All development in the N-3E zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 3.1.9 N-3R RESIDENTIAL



#### A. Purpose

The N-3R zone addresses residential areas adjoining the centers of Buffalo’s streetcar neighborhoods, generally defined by moderately compact residential blocks, which occasionally include small mixed use buildings.

#### B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-3R zone:

- Attached House
- Carriage House
- Civic Building
- Commercial Block
- Detached House
- Flex Building
- Loft Building
- Shopfront
- Shopfront House
- Stacked Units
- Tower

#### C. General

All development in the N-3R zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 3.1.10 N-4-30 SINGLE-FAMILY



#### A. Purpose

The N-4-30 zone addresses areas that are composed primarily of single-family homes on moderately compact lots of at least 30 feet in width.

#### B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-4-30 zone:

- Attached House
- Carriage House
- Civic Building
- Commercial Block
- Detached House
- Flex Building
- Loft Building
- Shopfront
- Shopfront House
- Stacked Units
- Tower

#### C. General

All development in the N-4-30 zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 3.1.11 N-4-50 SINGLE-FAMILY



#### A. Purpose

The N-4-50 zone addresses areas that are composed primarily of single-family homes on lots of at least 50 feet in width.

#### B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-4-50 zone:

- Attached House
- Carriage House
- Civic Building
- Commercial Block
- Detached House
- Flex Building
- Loft Building
- Shopfront
- Shopfront House
- Stacked Units
- Tower

#### C. General

All development in the N-4-50 zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

## 3.2 BUILDING TYPES

All principal buildings in the neighborhood zones must comply with the standards of this section.

### 3.2.1 General

- A.** An applicant must select which allowed building type corresponds to the building he/she is proposing to construct or alter, and must comply with the standards for that building type as it relates to that new construction or alteration. The applicant may choose to add optional frontage elements that correspond with the building type, per Section 3.3.
- B.** Table 3A: Building Types identifies the building types allowed by zone, with cross-references for building type definitions and form and dimensional standards that apply. Each building type may house any use allowed in the zone in which it is located (refer to Article 6, Uses), unless otherwise noted.

### C. Requirements for All Building Types

1. All principal buildings must be designed to be permanently erected on a permanent foundation and connected to all required utilities.
2. All principal buildings must be oriented to the thoroughfares they face, with all front and corner side facades positioned parallel or radial to right-of-way lines.
3. Where multiple principal buildings are proposed for a single lot, the proposal must include potential lot lines, which conform with this Ordinance, the purpose of which is to determine compliance with building type standards.
4. The standards for building types do not apply to accessory structures, which are addressed by Section 6.2. However, where a carriage house is accessory to another principal building on the site, the building type standards apply to the accessory carriage house.
5. A principal building may not have a building width, measured along the adjacent right-of-way line, which exceeds the maximum lot width, if any, put forth by the building type standards.

### D. Pedestrian-Priority Frontages

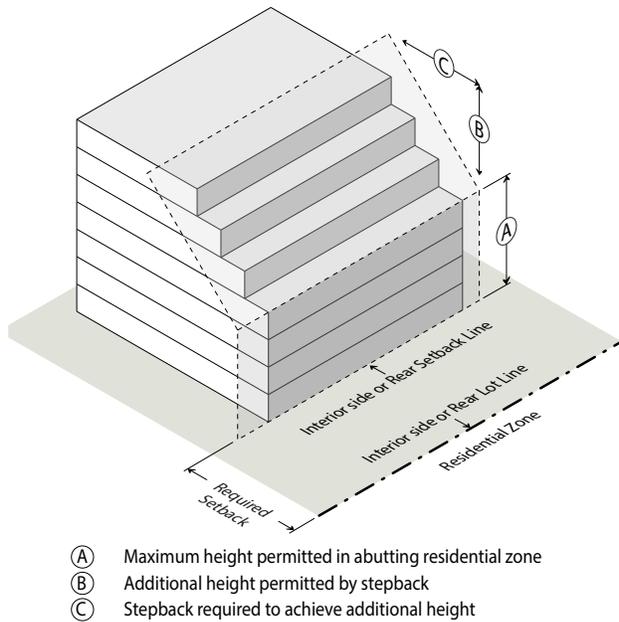
1. On the Zoning Map, Pedestrian-Priority Frontages (PPF) may be designated within the N-1D and N-1C zones that apply to specific frontage lines.
2. Along frontage lines designated a PPF, the following standards apply, in addition to the building type standards:
  - a. Any building that is constructed along a PPF must have a finished ground floor level of between ground level and two feet.
  - b. The ground floor of any facade that exists along a PPF must have a minimum transparency of 70%.
  - c. An interior side yard is prohibited along a PPF, except to facilitate a passage designed in accordance with Section 10.2.8.A.
  - d. Loading berths and vehicular parking entries may not be located along a PPF.
  - e. A civic building is not required to meet the above standards, except for "d," which prohibits loading berths and vehicular parking entries for all buildings along a PPF.

- E. Residential Density.** A property with multiple dwelling units may have a density of no more than one dwelling unit for each 1,250 square feet of lot area in the N-2R zone, and no more than one dwelling unit for each 1,500 square feet of lot area in the N-3R zone. The following are exceptions to this standard:

1. This standard does not apply to parcels which abut Delaware Avenue, between North Street and Gates Circle; Gates Circle; and North Street, between Main Street and Symphony Circle.
2. This standard does not apply to any multiple unit dwelling approved under an adaptive reuse permit.
3. This standard must not be interpreted as applying to an accessory dwelling, single-unit dwelling, or double-unit dwelling.

- F. Transitions to Residential Zones.** Where any principal building is proposed on a site that abuts an interior side or rear lot line in an N-2R, N-3R, N-4-30, or N-4-50 zone, and where the building's height is greater than the maximum height of building types allowed

in the abutting residential zone, the upper stories of the building must be set back from the respective interior side or rear setback line by at least one foot for each additional foot in height above the maximum height allowed for building types in the abutting residential zone. This may be provided with either a setback in the overall building footprint or with upper-story setbacks above the maximum height allowed for building types in the abutting residential zone.



**G. Height Exceptions**

1. Irrespective of the provisions in Sections 3.2.2 - 3.2.12, a principal building may be erected to a height of up to six stories and 76 feet on any parcel in the N-2R zone that abuts the following:
  - a. Delaware Avenue, between North Street and Gates Circle.
  - b. Gates Circle.
  - c. North Street, between Main Street and Symphony Circle.
2. Irrespective of the provisions in Sections 3.2.2 - 3.2.12, a principal building may be erected to a height of up to five stories and 66 feet on any parcel in the N-2C zone, or four stories and 54 feet on any parcel in the N-2E zone, that abuts the following:
  - a. Delaware Avenue, between Edward Street and North Street.
  - b. Main Street, between Edward Street and

East/West Delavan Avenue.

- c. Niagara Street, between Niagara Square and Ontario Street.

3. In no case may any of the above height exceptions be applied to a carriage house building type.

**H. Exterior Facade Restrictions.** Where exterior facade materials are restricted on front and corner side facades, these restrictions also apply to other facades in the following circumstances:

1. Where the principal building contains an interior side yard, the facade material restrictions apply to the interior side facade up to a depth, measured from the building's nearest corner at the front facade, equal to the width of the interior side yard, plus the distance between the interior side lot line and any adjacent principal building, but need not extend more than 50' from the front facade.
  2. Where an adjacent principal building is set back from the front yard line, the facade material restrictions apply along the interior side facade up to a depth, measured from the building's nearest corner at the front facade, equal to the depth of the front yard of the adjacent principal building, but need not extend more than 50' from the front facade.
  3. Where an adjacent lot is undeveloped, the facade material restrictions apply to the interior side facade up to a depth of 50', measured from the building's nearest corner at the front facade.
  4. Where the City Planning Board finds that any restricted facade material will have an adverse effect upon adjacent properties, the City Planning Board may apply such facade material restrictions to other facades.
- I. Neighborhood Shops.** An existing commercial block or shopfront house building in the N-2R or N-3R zones will be considered conforming, irrespective of the provisions of this section. Any alteration to such structures must comply with standards for the applicable building type, as follows:
1. If a commercial block or shopfront house structure exists in the N-2R zone, any alteration to the structure must comply with the standards for the respective building type as applied in the N-2C zone.

2. If a commercial block or shopfront house structure exists in the N-3R zone, any alteration to the structure must comply with the standards for the respective building type as applied in the N-3C zone.

**J. Elmwood Village Standards.**

1. The Elmwood Village is defined as the area north of North Street, south of Forest Avenue, east of Richmond Avenue, and west of Delaware Avenue, but not including any parcel that abuts Delaware Avenue or Gates Circle.
2. The following standards apply to all principal buildings in the Elmwood Village that are designed to accommodate one or more commercial establishments:
  - a. A commercial establishment may have a gross floor area of no more than 3,500 square feet on the ground story and 7,000 square feet overall.
  - b. At least one main entrance must be provided for each 30 feet of front facade width along any ground story space designed to accommodate a commercial establishment.
3. No more than two lots in the Elmwood Village, existing at the time of the adoption of this Ordinance, may be combined for the purposes of new construction in an N-2C or N-2E zone.

**K. Demolitions**

1. Demolition is prohibited for any principal building in an N-1D, N-1C, N-1S, N-2C, N-2E, N-3C, or N-3E zone; or any building that is listed on the National Register of Historic Places, or is a contributing structure to a National Register historic district, except where:
  - a. The Commissioner of Permits and Inspection Services determines that an emergency demolition is required for the purpose of public safety.
  - b. A site plan has been approved for one or more new principal buildings, or another use has been approved by the City on the site of the proposed demolition.
2. The City Planning Board may waive this prohibition if both of the following criteria are met:
  - a. The principal building proposed to be demolished does not comply with the form standards of one of the building types allowed in the zone where the demolition is proposed; and
  - b. The principal building proposed to be demolished is inconsistent with the intent of the zone where the demolition is proposed.

TABLE 3A: BUILDING TYPES

	N-1D	N-1C	N-1S	N-2C	N-2E	N-2R	N-3C	N-3E	N-3R	N-4-30	N-4-50	Definitions/Standards
Attached House		●	●		●	●		●	●			Section 3.2.2
Carriage House		●		●	●	●	●	●	●			Section 3.2.3
Civic Building	●	●	●	●	●	●	●	●	●	●	●	Section 3.2.4
Commercial Block	●	●		●	●		●	●				Section 3.2.5
Detached House					●	●		●	●	●	●	Section 3.2.6
Flex Building			●									Section 3.2.7
Loft Building			●									Section 3.2.8
Shopfront							● <sup>1</sup>	● <sup>1</sup>				Section 3.2.9
Shopfront House				●	●		●	●				Section 3.2.10
Stacked Units	●	●			●	●		●	●			Section 3.2.11
Tower	●											Section 3.2.12

● Permitted

1. Shopfront buildings are not permitted along Hertel Avenue, between Delaware Avenue and Main Street.

### 3.2.2 ATTACHED HOUSE



#### A. Description

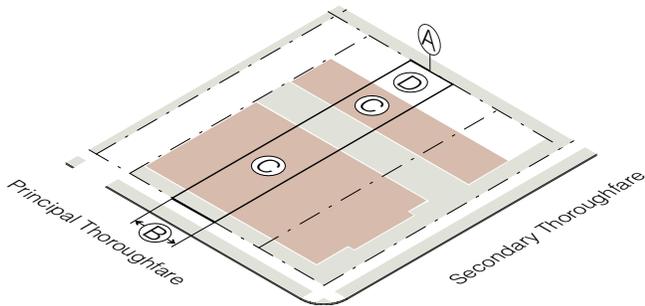
An attached house is a building on a narrow lot that shares a party wall with a building on an adjoining lot, typically designed as a dwelling.

#### B. Frontage Elements

The following frontage elements are allowed for the attached house building type, subject to the requirements of Section 3.3:

- Arcade
  - Awning
  - Balcony
  - Canopy
- Forecourt
  - Plaza
  - Porch
  - Stoop

### C. Lot



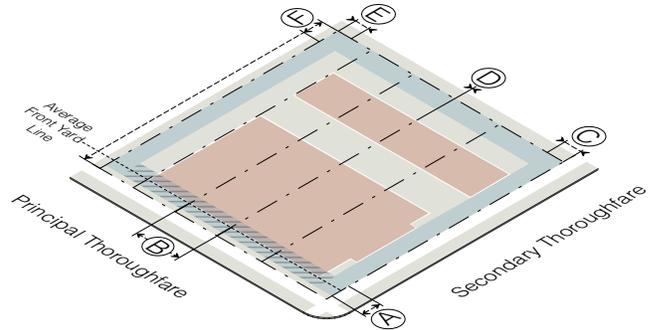
#### Lot Dimensions

Ⓐ	Lot area (min)	900 SF
Ⓑ	Lot width (min/max)	15'/40'

#### Lot Coverage

Ⓒ	Building coverage (max)	
	N-1C, N-1S	90%
	N-2E, N-2R, N-3E, N-3R	70%
Ⓓ	Impervious coverage (max)	
	N-1C, N-1S	100%
	N-2E, N-2R, N-3E, N-3R	80%

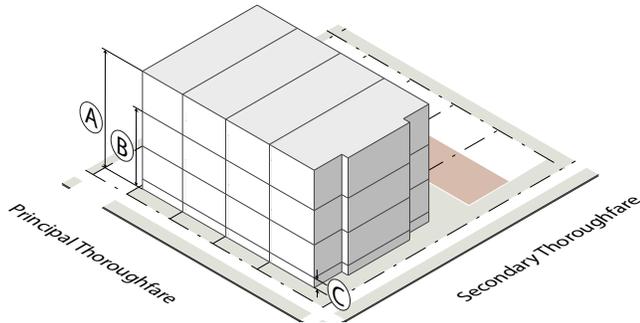
### D. Siting



#### Building Setbacks

Ⓐ	Front yard (min/max)	+/- 5' from established front yard line
Ⓑ	Build-to percentage, front facade (min)	85%
Ⓒ	Corner side yard (min/max)	
	N-1C, N-1S	0'/5'
	N-2E, N-2R, N-3E, N-3R	3'/15'
Ⓓ	Interior side yard (min)	0'
Ⓔ	Interior side yard, end unit (min)	
	N-1C, N-1S	0'
	N-2E, N-2R, N-3E, N-3R	3'
Ⓕ	Rear yard (min)	
	N-1C, N-1S	0'; 15% of lot depth if rear lot line abuts an N-2R, N-3R, N-4-30, or N-4-50 zone
	N-2E, N-2R	15% of lot depth
	N-3E, N-3R	20% of lot depth

## E. Height



### Building Height

Ⓐ	Building height (max)	
	N-1C, N-1S	4 stories, 52'
	N-2E, N-2R, N-3E, N-3R	3 stories, 40'
Ⓑ	Building height (min)	
	N-1C, N-1S	3 stories
	N-2E, N-2R, N-3E, N-3R	2 stories

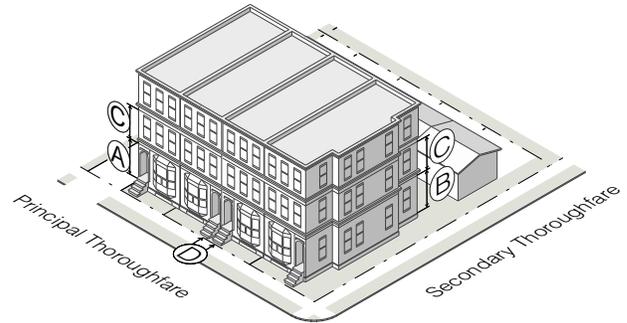
### Supplemental Standards

1. See Section 3.2.1.G for height limit exceptions which apply along specified sections of Delaware Avenue, Gates Circle, and North Street in the N-2R zone; and along specified sections of Delaware Avenue, Main Street, and Niagara Street in the N-2E zone.

### Story Height

Ⓒ	Finished ground floor level (min/max)	0'/4'
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## F. Activation



### Transparency

Ⓐ	Ground floor transparency, front facade (min)	20%
Ⓑ	Ground floor transparency, corner side facade (min)	20%
Ⓒ	Upper floor transparency, front and corner side facades (min)	20%

### Pedestrian Access

Ⓓ	Main entrance location (required)	Front facade
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### G. Specific Standards

1. A grouping of attached houses may not exceed 120 feet in aggregate width, except in the N-1C and N-1S zones, where there are no such restrictions.
2. All attached houses in a single grouping of attached houses must maintain the same front yard setback, with a deviation of up to two feet allowed.
3. Exterior facade materials are restricted on attached houses, as follows:
  - a. Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15% is prohibited.
  - b. Standard, fluted, or split face concrete masonry units (CMUs) above the basement level are prohibited.
  - c. Exterior insulating finish systems (EIFS) are prohibited in the N-1C, N-1S, N-2E, and N-3E zones.
  - d. Vinyl siding is prohibited in the N-1C, N-1S, N-2E, and N-3E zones.

### 3.2.3 CARRIAGE HOUSE



#### A. Description

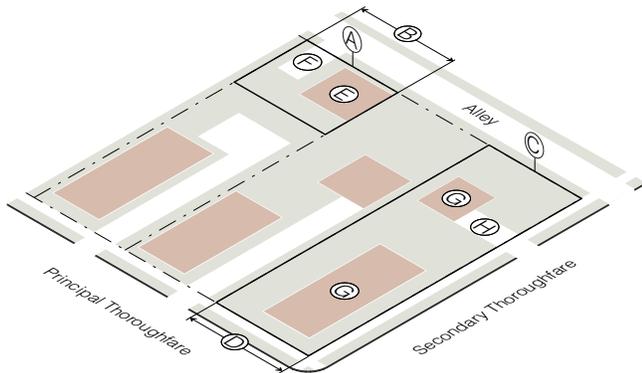
A carriage house is a small building, typically designed for a dwelling or small business that may be above a garage at ground level. A carriage house may be either an ancillary building located to the rear of a lot, or a principal building on its own lot, fronting an alley.

#### B. Frontage Elements

The following frontage elements are allowed for the carriage house building type, subject to the requirements of Section 3.3:

- |  |  |
|--|--|
| <span style="color: #4F81BD;">■</span> Arcade  | <span style="color: #4F81BD;">■</span> Forecourt |
| <span style="color: #0070C0;">■</span> Awning  | <span style="color: #4F81BD;">■</span> Plaza     |
| <span style="color: #0070C0;">■</span> Balcony | <span style="color: #0070C0;">■</span> Porch     |
| <span style="color: #0070C0;">■</span> Canopy  | <span style="color: #0070C0;">■</span> Stoop     |

## C. Lot



### Lot Dimensions - Principal

(A)	Lot area (min)	600 SF
(B)	Lot width (min/max)	15'/45'

### Lot Dimensions - Ancillary

(C)	Lot area	Refer to standards for lot dimensions for the principal building
(D)	Lot width	Refer to standards for lot dimensions for the principal building

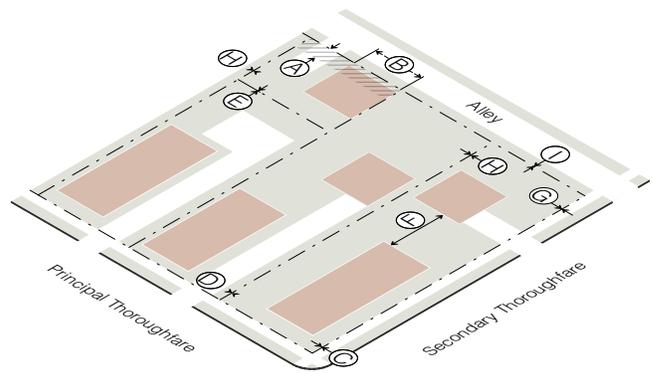
### Lot Coverage - Principal

(E)	Building coverage (max)	80%
(F)	Impervious coverage (max)	90%

### Lot Coverage - Ancillary

(G)	Building coverage	Refer to standards for lot dimensions for the principal building
(H)	Impervious coverage	Refer to standards for lot dimensions for the principal building

## D. Siting



### Building Setbacks - Principal

(A)	Front yard (min/max)	0'/5'
(B)	Build-to percentage, front facade (min)	65%
(C)	Corner side yard (min)	0'
(D)	Interior side yard (min)	0'
(E)	Rear yard (min)	10% of lot depth

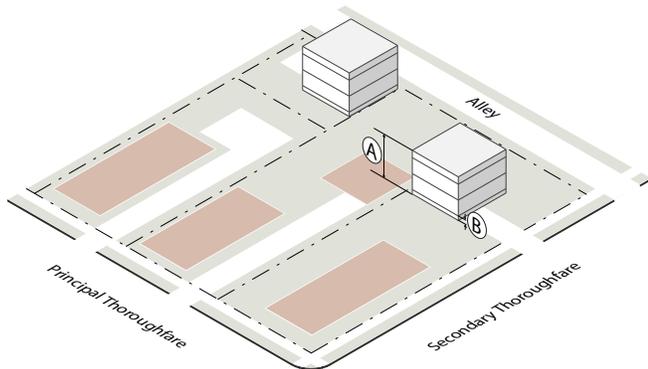
### Building Setbacks - Ancillary

(F)	Front yard (min)	10' from principal structure
(G)	Corner side yard (min)	0' <sup>1</sup>
(H)	Interior side yard (min)	0' <sup>1</sup>
(I)	Rear yard (min)	0' <sup>1</sup>

### Supplemental Standards

1. If a required yard applies to the corner side yard, interior side yard, or rear yard of the principal building, the ancillary carriage house may encroach upon these required yards, so long as the carriage house and any other accessory structures do not in the aggregate occupy more than 50% of the area of any individual required yard. If an ancillary carriage house encroaches upon a required yard, the carriage house must be located at least 18 inches from any lot line, except where the required yard abuts an alley right-of-way line.

## E. Height



### Building Height

Ⓐ	Building height (max)	
	N-1C	3 stories <sup>1</sup>
	N-2C, N-2E, N-2R, N-3C, N-3E, N-3R	2 stories <sup>1</sup>

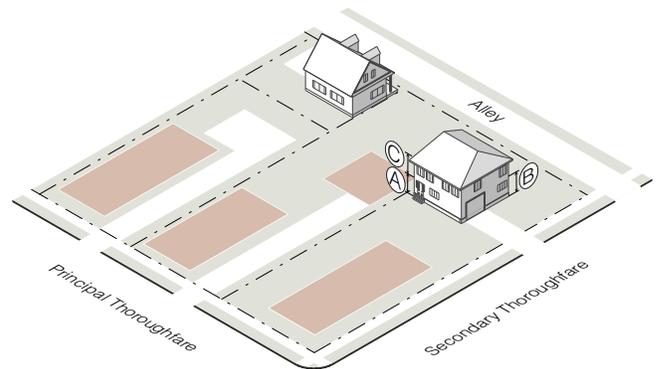
#### Supplemental Standards

1. Where an ancillary carriage house is proposed on a site which abuts an interior side or rear lot line in an N-2R, N-3R, N-4-30, or N-4-50 zone, the carriage house may be up to 18 feet in height along a required rear or interior side setback line. Additional height up to a maximum height of 24 feet, is allowed by providing an additional setback from the respective rear or interior side setback line of at least one foot for each additional one foot of building height above 18 feet.

### Story Height

Ⓑ	Finished ground floor level (min/max)	0'/4'
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## F. Activation



### Transparency

Ⓐ	Ground floor transparency, front facade (min)	20% <sup>1</sup>
Ⓑ	Ground floor transparency, corner side facade (min)	20% <sup>1</sup>
Ⓒ	Upper floor transparency, front and corner side facades (min/max)	20%

#### Supplemental Standards

1. If a ground floor contains a vehicular entry, the area of the vehicular entry is subtracted from the calculated area of the ground floor facade.

### G. Specific Standards

1. A carriage house may only be considered a principal building if the front lot line of the parcel is located along an alley.
2. Where a carriage house is ancillary to a principal building, the carriage house must comply with the standards of Section 6.1.2.B.
3. The following exterior facade materials are prohibited on carriage houses:
  - a. Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15%.

### 3.2.4 CIVIC BUILDING



#### A. Description

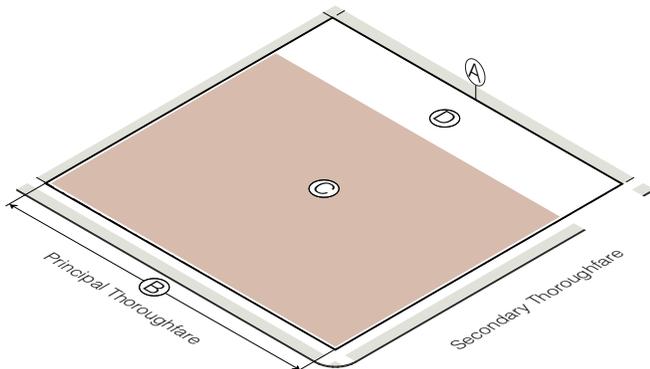
A civic building is a building designed to stand apart from its surroundings due to the special nature of its use as a public facility. A civic building is often among the most prominently sited and architecturally significant in a neighborhood.

#### B. Frontage Elements

The following frontage elements are allowed for the civic building type, subject to the requirements of Section 3.3:

- |           |             |
|-----------|-------------|
| ■ Arcade  | ■ Forecourt |
| ■ Awning  | ■ Plaza     |
| ■ Balcony | ■ Porch     |
| ■ Canopy  | ■ Stoop     |

### C. Lot



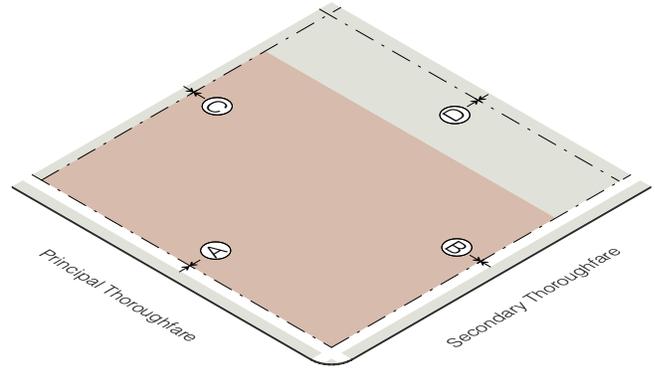
#### Lot Dimensions

Ⓐ	Lot area (min)	N/A
Ⓑ	Lot width (min/max)	N/A

#### Lot Coverage

Ⓒ	Building coverage (max)	
	N-1D, N-1C, N-1S	100%
	N-2C, N-2E, N-3C, N-3E	90%
	N-2R, N-3R, N-4-30	70%
	N-4-50	50%
Ⓓ	Impervious coverage (max)	
	N-1D, N-1C, N-1S, N-2C, N-2E, N-3C, N-3E	90%
	N-2R, N-3R, N-4-30	80%
	N-4-50	60%

### D. Siting



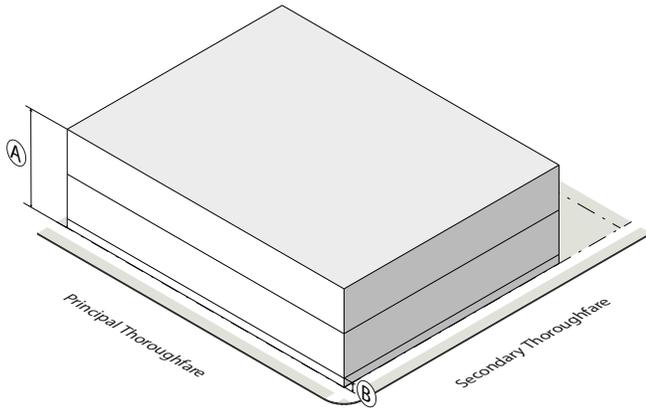
#### Building Setbacks

Ⓐ	Front yard (min)	N/A <sup>1</sup>
Ⓑ	Corner side yard (min)	N/A <sup>1</sup>
Ⓒ	Interior side yard (min)	N/A <sup>1</sup>
Ⓓ	Rear yard (min)	N/A <sup>1</sup>

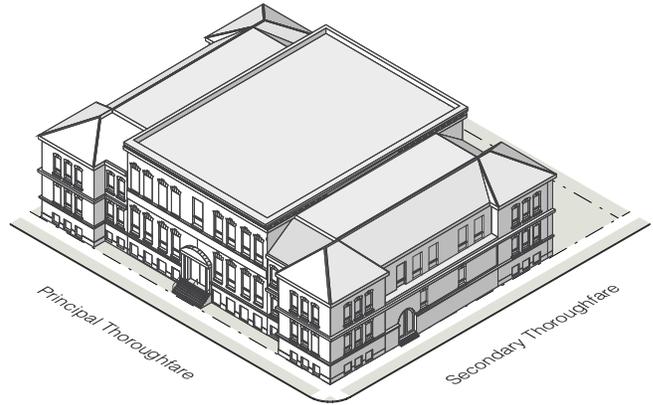
#### Supplemental Standards

1. Yard requirements are determined by the City Planning Board during site plan approval.

## E. Height



## F. Activation



### Building Height

Ⓐ	Building height (max)	
	N-1D	1.75 times the width of the widest adjacent thoroughfare, plus 3.5' for each 1' of upper story setback
	N-1C	1.25 times the width of the widest adjacent thoroughfare
	N-1S	6 stories, 90'
	N-2C, N-2E, N-2R, N-3C, N-3E, N-3R, N-4-30, N-4-50	3 stories, 40'

#### Supplemental Standards

1. See Section 3.2.1.G for height limit exceptions which apply along specified sections of Delaware Avenue, Gates Circle, and North Street in the N-2R zone; and along specified sections of Delaware Avenue, Main Street, and Niagara Street in the N-2C and N-2E zones.

Ⓑ	Finished ground floor level (min/max)	0'/5'
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### Transparency

Any facade (min)	N/A <sup>1</sup>
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### Pedestrian Access

Main entrance location (required)	Front facade
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#### Supplemental Standards

1. Transparency requirements are determined by the City Planning Board during site plan approval.

**G. Specific Standards**

1. A civic building may be erected only by a government agency or nonprofit establishment and only for the following principal uses, if allowed in the zone: assembly, college/university, cultural facility, government offices, lodge or private club, primary/secondary school, bicycle parking station, Metro Rail station, or major or minor utilities and services.
2. A civic building is subject to major site plan review, per Section 11.3.7. As part of major site plan review, the City Planning Board must evaluate a proposal for a civic building against the following design guidelines:
  - a. A civic building should be located and designed to provide a landmark appropriate to its importance and setting, aiding legibility of the wider area.
  - b. A civic building should physically define public space and thoroughfares as places of shared use.
  - c. A civic building should be designed to encourage public use and activity within and nearby its site.
  - d. A civic building should communicate its importance and function through architectural cues and attractive signage.
  - e. A civic building should be built with high quality, durable materials.
  - f. A civic building should incorporate sustainable building and landscape practices.
  - g. A civic building should be noteworthy in itself and in relation to its surroundings, contributing to an attractive setting for users, customers, and the wider public.
  - h. A civic building should promote public spaces and access routes that are attractive and accessible for all users.
  - i. A civic building should build upon and

improve community character by responding to and reinforcing locally distinctive patterns of development, landscape, and culture.

3. The following exterior facade materials are prohibited on civic buildings:
  - a. Exterior insulating finish systems (EIFS).
  - b. Standard, fluted, or split face concrete masonry units (CMUs) above the basement level. Glazed or heavily polished CMUs are allowed.
  - c. Vinyl siding.
  - d. Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15%.

### 3.2.5 COMMERCIAL BLOCK



#### A. Description

A commercial block is a multi-story building designed to facilitate a vertical mix of uses, with pedestrian-friendly ground floor retail or service uses and upper floor residential, hospitality, or office uses. A commercial block makes up the primary component of a neighborhood main street or downtown main street, therefore being integral to creating a walkable, mixed-use environment.

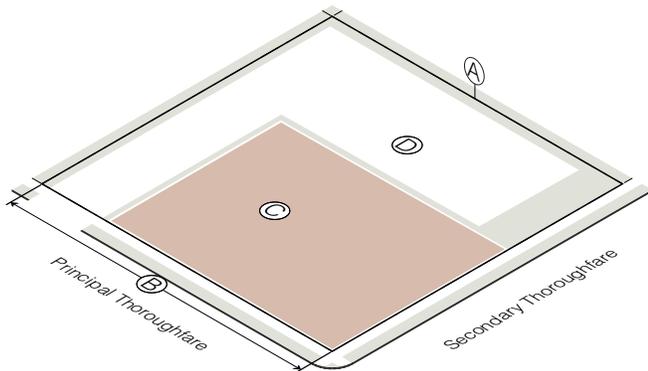
#### B. Frontage Elements

The following frontage elements are allowed for the commercial block building type, subject to the requirements of Section 3.3:

- |           |                      |
|-----------|----------------------|
| ■ Arcade  | ■ Forecourt          |
| ■ Awning  | ■ Plaza <sup>1</sup> |
| ■ Balcony | ■ Porch              |
| ■ Canopy  | ■ Stoop              |

1. Plazas are allowed for commercial block buildings only in the N-1D and N-1C zones.

### C. Lot



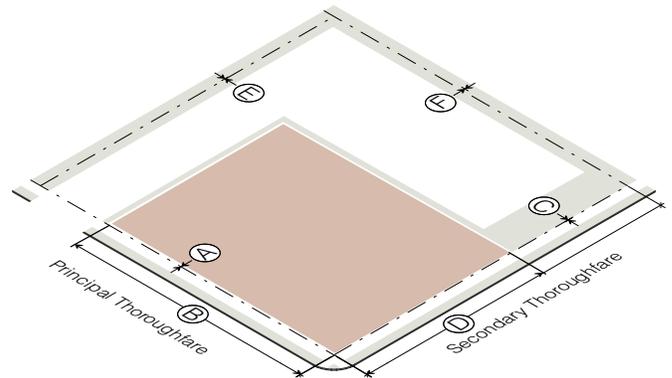
#### Lot Dimensions

Ⓐ	Lot area (min)	1,000 SF
Ⓑ	Lot width (min/max)	
	N-1D, N-1C	15'/none
	N-2C, N-2E	15'/120'
	N-3C, N-3E	15'/150'

#### Lot Coverage

Ⓒ	Building coverage (max)	
	N-1D, N-1C	100%
	N-2C, N-2E, N-3C, N-3E	90%
Ⓓ	Impervious coverage (max)	100%

### D. Siting



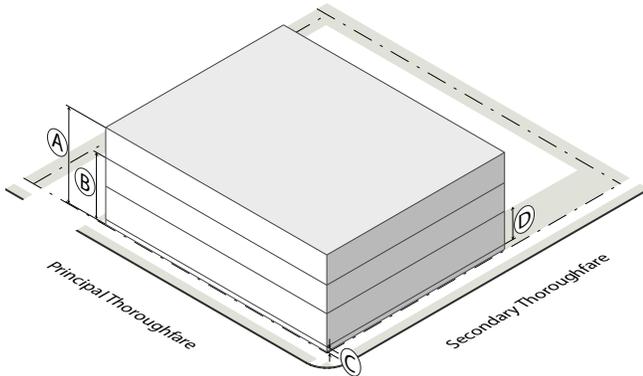
#### Building Setbacks

Ⓐ	Front yard (min/max)	0'/0'
Ⓑ	Build-to percentage, front facade (min)	85%
Ⓒ	Corner side yard (min/max)	0'/0'
Ⓓ	Build-to percentage, corner side facade (min)	85%
Ⓔ	Interior side yards (min/max total)	0'/30' <sup>1</sup>
Ⓕ	Rear yard (min)	0'; 15% of lot depth, but need not be greater than 15', if rear lot line abuts an N-2R, N-3R, N-4-30, or N-4-50 zone

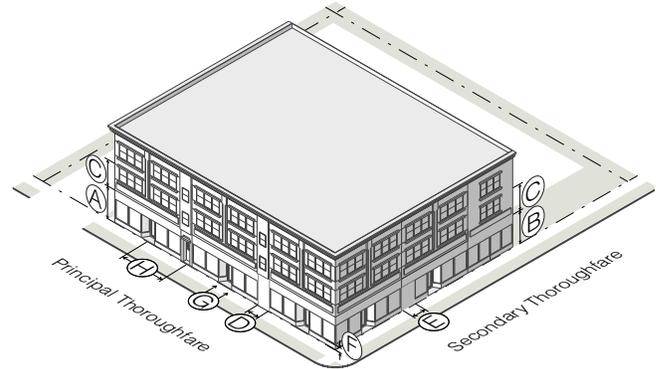
#### Supplemental Standards

1. In an N-3E zone, a maximum total of 45' may be permitted for interior side yards, only where the City Planning Board expressly permits parking in an interior side yard as part of major site plan review, per Section 8.3.3.A.3.

## E. Height



## F. Activation



### Building Height

Ⓐ	Building height (max)	
	N-1D	1.75 times the width of the widest adjacent thoroughfare <sup>1</sup>
	N-1C	1.25 times the width of the widest adjacent thoroughfare
	N-2C, N-2E, N-3C, N-3E	3 stories, 44' <sup>2</sup>
Ⓑ	Building height (min)	
	N-1D	4 stories
	N-1C, N-2C, N-2E, N-3C, N-3E	2 stories

#### Supplemental Standards

1. Buildings that are taller than 1.75 times the width of the widest adjacent thoroughfare in the N-1D zone must comply with the standards for towers in Section 3.2.12.

2. See Section 3.2.1.G for height limit exceptions which apply along specified sections of Delaware Avenue, Main Street, and Niagara Street in the N-2C and N-2E zones.

### Story Height

Ⓒ	Finished ground floor level (min/max)	0'/2'
Ⓓ	Ground story height (min)	15'

### Transparency

Ⓐ	Ground floor transparency, front facade (min)	70%
Ⓑ	Ground floor transparency, corner side facade (min)	40%
Ⓒ	Upper floor transparency, front and corner facades (min)	25%
Ⓓ	Ground floor blank wall width, front facade (max)	10'
Ⓔ	Ground floor blank wall width, corner side facade (max)	30'
Ⓕ	Ground floor window sill height, front and corner facades (min/max)	0.5'/2.5'

### Pedestrian Access

Ⓖ	Main entrance location (required)	Front facade
Ⓖ	Entrance spacing along front facade (preferred)	At least 1 entrance every 30' <sup>1</sup>

#### Supplemental Standards

1. See Section 3.2.1.J for entrance spacing requirements which apply in specified sections of Elmwood Village.

**G. Specific Standards**

1. Vertical articulation is required (e.g., bays, mullions, columns, piers, pilasters, recessed entries, awnings, or other architectural treatments) to visually break up the massing of the ground story of the front and corner side facades into segments no greater than 25 feet in width.
2. Horizontal articulation is required (e.g., belt courses, cornice lines, entablatures, friezes, awnings or canopies, changes in materials or window patterns, recessed entries, or other architectural treatments) to distinguish the ground story of front and corner side facades from the upper stories.
3. A main entrance must effectively address the adjacent public realm and be given prominence on the building facade. This may be satisfied through the use of architectural features such as entranceway roofs; entranceway recesses; a chamfered corner; sidelight windows, transom window, or other adjacent windows; additional mouldings with expression lines; or a bay of unique width.
4. Alterations should not cover, infill, remove, or damage significant, original architectural elements of existing commercial block buildings that are visible from the adjacent public right-of-way. In cases where original architectural elements are in poor condition and cannot be restored, replication of original elements with new elements is encouraged.
5. Exterior facade materials are restricted on commercial block buildings, as follows:
  - a. Exterior insulating finishing systems (EIFS) are prohibited on the ground story of front and corner side facades, and are limited to 20% on upper stories of front and corner side facades.
  - b. Standard, fluted, or split face concrete masonry units (CMUs) are prohibited above the basement level on front and corner side facades. Glazed or heavily polished CMUs are allowed.
  - c. Vinyl siding is prohibited.
  - d. Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15% is prohibited.
6. Vents, air conditioners, and other utility elements, except where such elements are enclosed, camouflaged, screened, obscured, or otherwise not readily apparent to a casual observer, are prohibited as part of a front or corner side facade.
7. Security devices such as coiling shutters and accordion gates are prohibited on front or corner side facades, except where such devices are at least 50% transparent and located wholly behind a window or door, when viewed from the public right-of-way.

### 3.2.6 DETACHED HOUSE



#### A. Description

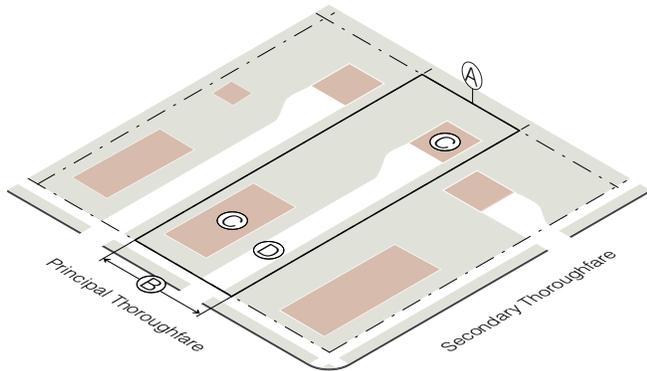
A detached house is a small-scale, freestanding building, typically set back from the public right-of-way and elevated above the ground level to provide privacy to occupants, and ideally designed to facilitate residential uses.

#### B. Frontage Elements

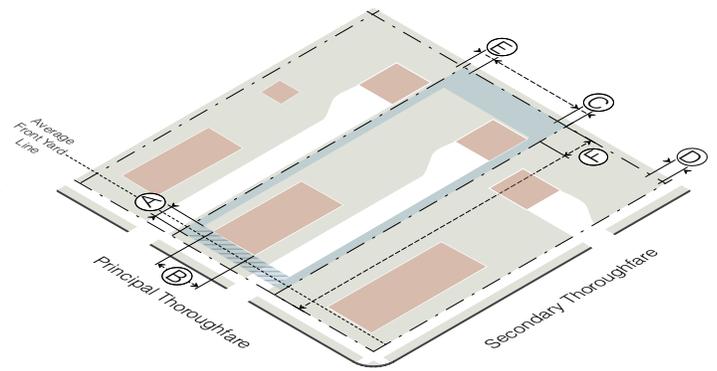
The following frontage elements are allowed for the detached house building type, subject to the requirements of Section 3.3:

- Arcade
  - Awning
  - Balcony
  - Canopy
- Forecourt
  - Plaza
  - Porch
  - Stoop

### C. Lot



### D. Siting



#### Lot Dimensions

Ⓐ	Lot area (min)	
	N-2E, N-2R	1,500 SF
	N-3E, N-3R	1,800 SF
	N-4-30	2,400 SF
	N-4-50	4,000 SF
Ⓑ	Lot width (min/max)	
	N-2E, N-2R	25'/60'
	N-3E, N-3R, N-4-30	30'/75'
	N-4-50	50'/None

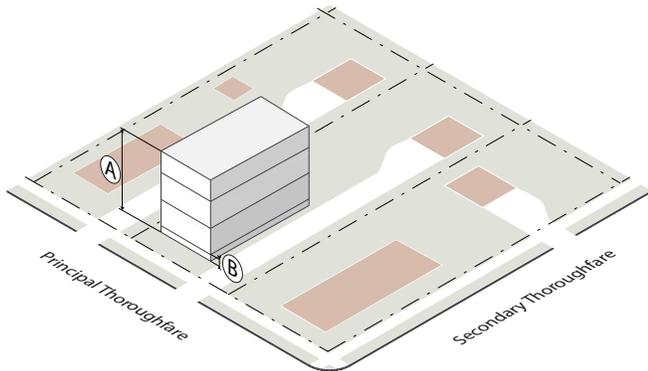
#### Lot Coverage

Ⓒ	Building coverage (max)	
	N-2E, N-2R, N-3E, N-3R	70%
	N-4-30	60%
	N-4-50	50%
Ⓓ	Impervious coverage (max)	
	N-2E, N-2R, N-3E, N-3R	80%
	N-4-30	70%
	N-4-50	60%

#### Building Setbacks

Ⓐ	Front yard (min/max)	+/- 5' from established front yard line
Ⓑ	Build-to percentage, front facade (min)	65%
Ⓒ	Side yards (min total)	20% of lot width
Ⓓ	Corner side yard (min)	
	N-2E, N-2R, N-3E, N-3R, N-4-30	3'
	N-4-50	6'
Ⓔ	Interior side yard (min)	
	N-2E, N-2R, N-3E, N-3R, N-4-30	3'
	N-4-50	6'
Ⓕ	Rear yard (min)	
	N-2E, N-2R	15% of lot depth
	N-3E, N-3R	20% of lot depth
	N-4-30, N-4-50	25% of lot depth

## E. Height



### Building Height

(A)	Building height (max)	3 stories, 40'1"
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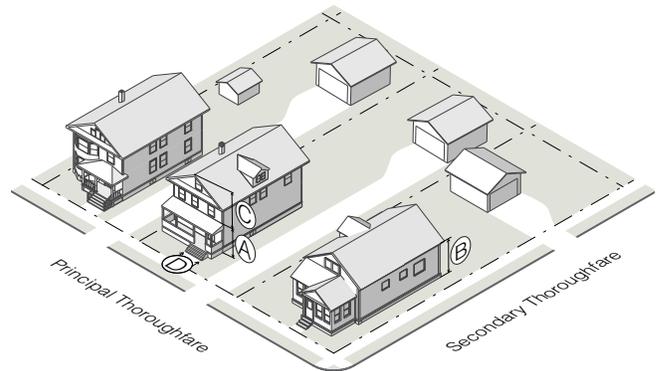
### Story Height

(B)	Finished ground floor level (min/max)	0'/4'
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#### Supplemental Standards

1. See Section 3.2.1.G for height limit exceptions which apply along specified sections of Delaware Avenue, Gates Circle, and North Street in the N-2R zone; and along specified sections of Delaware Avenue, Main Street, and Niagara Street in the N-2E zone.

## F. Activation



### Transparency

(A)	Ground floor transparency, front facade (min)	20%
(B)	Ground floor transparency, corner side facade (min)	20%
(C)	Upper floor transparency, front and corner side facades (min)	20%

### Pedestrian Access

(D)	Main entrance location (required)	Front, interior side, or corner side facade
-----	-----------------------------------	---

**G. Specific Standards**

1. The following exterior facade materials are prohibited on detached houses:
  - a. Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15%.

### 3.2.7 FLEX BUILDING



#### A. Description

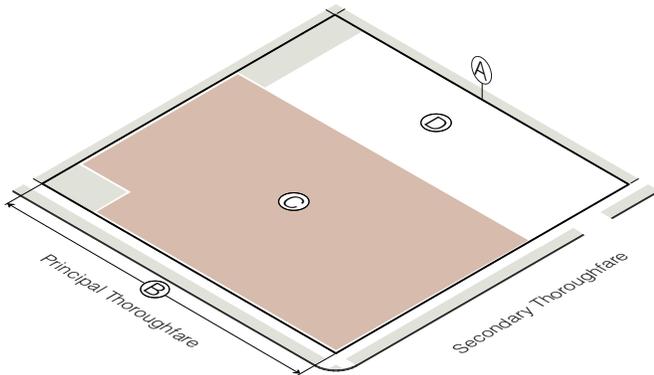
A flex building is a single-story, typically large-footprint building, often naturally lit with monitor or sawtooth roofs. A flex building is ideally designed to facilitate industrial, office, and retail uses.

#### B. Frontage Elements

The following frontage elements are allowed for the flex building type, subject to the requirements of Section 3.3:

- Arcade
  - Awning
  - Balcony
  - Canopy
- Forecourt
  - Plaza
  - Porch
  - Stoop

### C. Lot



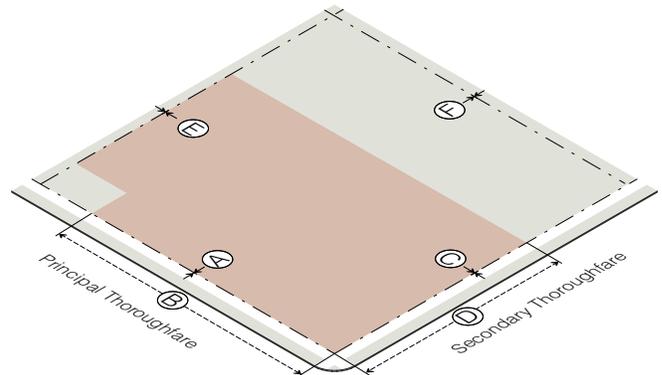
#### Lot Dimensions

Ⓐ	Lot area (min)	5,000 SF
Ⓑ	Lot width (min)	50'

#### Lot Coverage

Ⓒ	Building coverage (max)	100%
Ⓓ	Impervious coverage (max)	100%

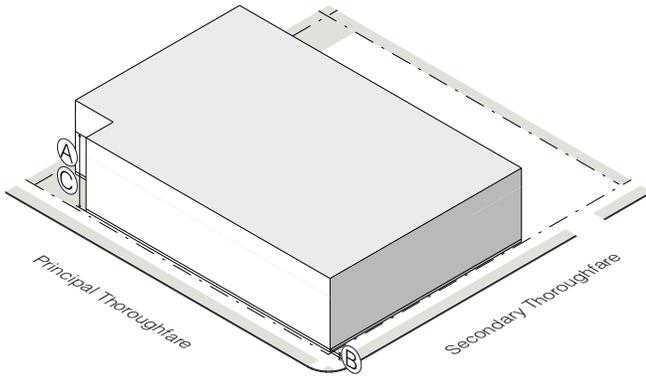
### D. Siting



#### Building Setbacks

Ⓐ	Front yard (min/max)	0'/5'
Ⓑ	Build-to percentage, front facade (min)	85%
Ⓒ	Corner side yard (min/max)	0'/5'
Ⓓ	Build-to percentage, corner side facade (min)	65%
Ⓔ	Interior side yard (min)	0'
Ⓕ	Rear yard (min)	0'

## E. Height



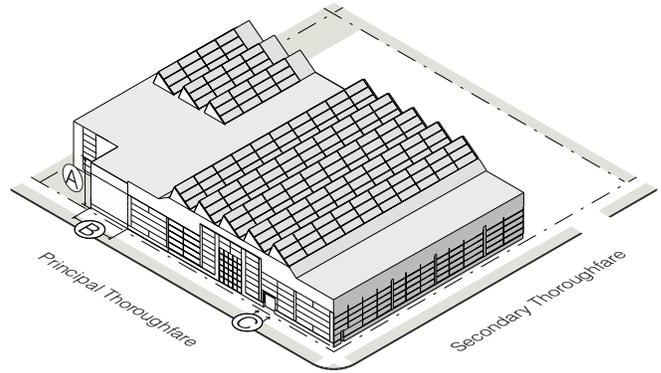
### Building Height

(A)	Building height	1 story
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### Story Height

(B)	Finished ground floor level (min/max)	0'/2'
(C)	Ground story height (min)	18'

## F. Activation



### Transparency

(A)	Ground floor transparency, front and corner side facades (min)	40%
(B)	Ground floor blank wall width (max)	30' front facade; 50' corner side facade

### Pedestrian Access

(C)	Main entrance location (required)	Front facade
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## G. Specific Standards

1. Windows and other openings or reflective surfaces should be placed so that during the day, natural light may provide effective daylighting to at least 60% of regularly occupied interior spaces. Spaces not used for critical visual tasks, such as copy rooms, storage areas, mechanical plant rooms, laundry rooms, and other low occupancy support areas, are excluded from this recommendation.
2. Exterior facade materials are prohibited on flex buildings, as follows:
  - a. Vinyl siding.
  - b. Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15%.

### 3.2.8 LOFT BUILDING



#### A. Description

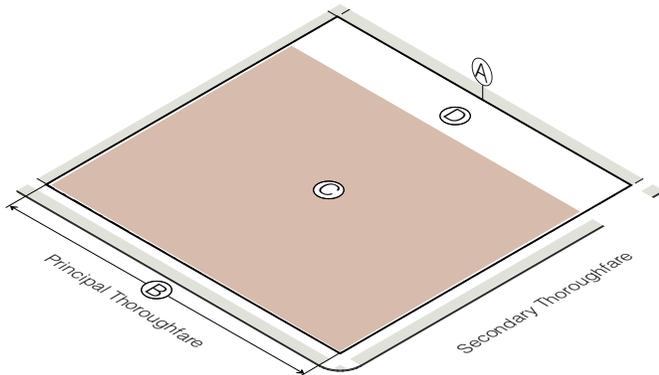
A loft building is a multi-story, typically large-footprint building, often naturally lit with tall ceilings, expansive windows, and light wells. A loft building is ideally designed to facilitate a vertical mix of uses, including industrial, office, retail, and residential.

#### B. Frontage Elements

The following frontage elements are allowed for the loft building type, subject to the requirements of Section 3.3:

- Arcade
  - Awning
  - Balcony
  - Canopy
- Forecourt
  - Plaza
  - Porch
  - Stoop

### C. Lot



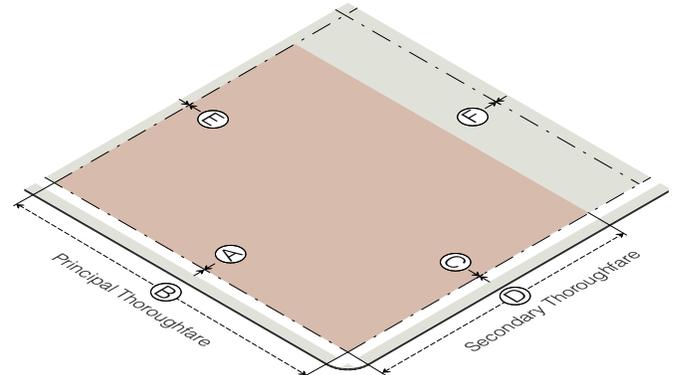
#### Lot Dimensions

Ⓐ	Lot area (min)	5,000 SF
Ⓑ	Lot width (min)	50'

#### Lot Coverage

Ⓒ	Building coverage (max)	100%
Ⓓ	Impervious coverage (max)	100%

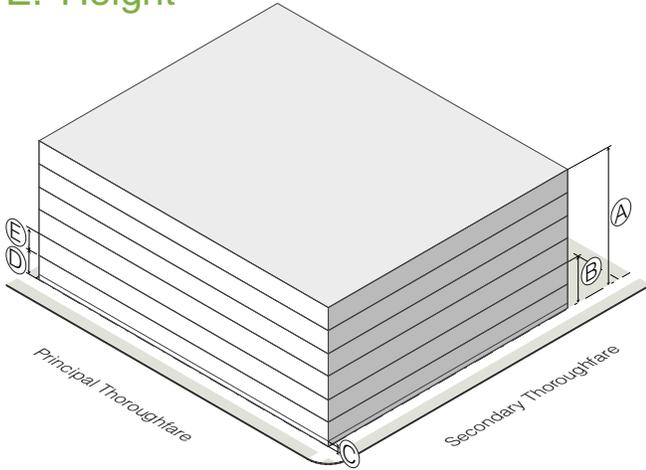
### D. Siting



#### Building Setbacks

Ⓐ	Front yard (min/max)	0'/5'
Ⓑ	Build-to percentage, front facade (min)	85%
Ⓒ	Corner side yard (min/max)	0'/5'
Ⓓ	Build-to percentage, corner side facade (min)	65%
Ⓔ	Interior side yard (min)	0'
Ⓕ	Rear yard (min)	0'

### E. Height



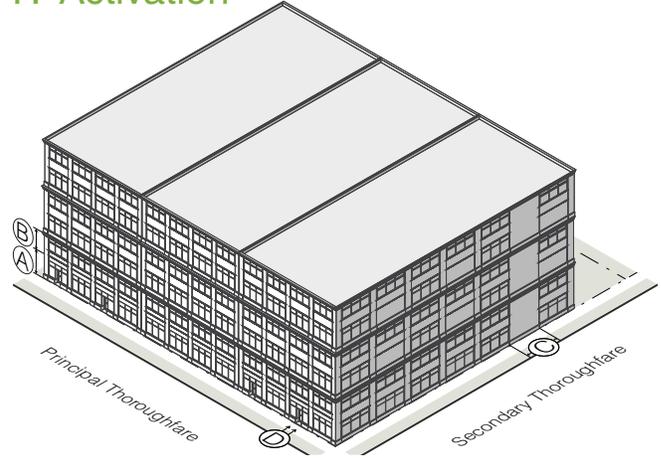
#### Building Height

Ⓐ	Building height (max)	6 stories, 90'
Ⓑ	Building height (min)	2 stories

#### Story Height

Ⓒ	Finished ground floor level (min/max)	0'/4'
Ⓓ	Ground story height (min)	13'
Ⓔ	Upper story height (min)	13'

### F. Activation



#### Transparency

Ⓐ	Ground floor transparency, front and corner side facades (min)	40%
Ⓑ	Upper floor transparency, front and corner side facades (min)	40%
Ⓒ	Ground floor blank wall width (max)	30' front facade; 50' corner side facade

#### Pedestrian Access

Ⓓ	Main entrance location (required)	Front facade
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### G. Specific Standards

1. Windows and other openings or reflective surfaces should be placed so that during the day, natural light may provide effective daylighting to at least 60% of regularly occupied interior spaces. Spaces not used for critical visual tasks, such as copy rooms, storage areas, mechanical plant rooms, laundry rooms, and other low occupancy support areas, are excluded from this recommendation.
2. Exterior facade materials are prohibited on loft buildings, as follows:
  - a. Vinyl siding.
  - b. Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15%.

### 3.2.9 SHOPFRONT



#### A. Description

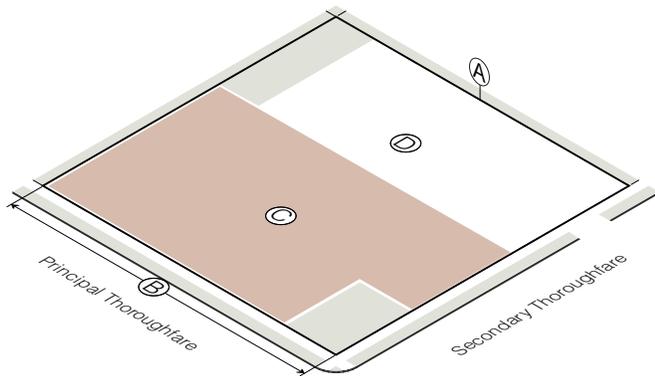
A shopfront is a single-story building designed to facilitate pedestrian-friendly ground floor retail or service uses.

#### B. Frontage Elements

The following frontage elements are allowed for the shopfront building type, subject to the requirements of Section 3.3:

- Arcade
  - Awning
  - Balcony
  - Canopy
- Forecourt
  - Plaza
  - Porch
  - Stoop

### C. Lot



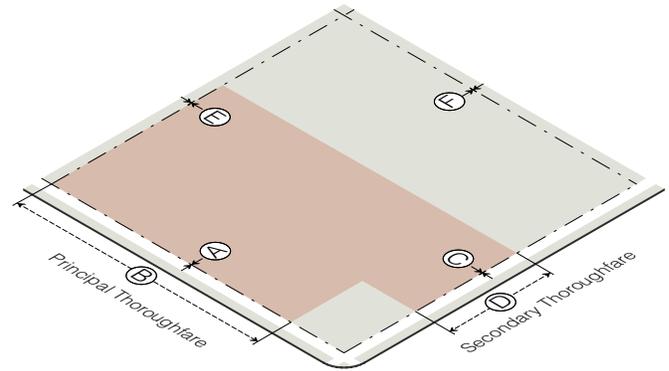
#### Lot Dimensions

(A)	Lot area (min)	1,000 SF
(B)	Lot width (min/max)	15'/150'

#### Lot Coverage

(C)	Building coverage (max)	90%
(D)	Impervious coverage (max)	100%

### D. Siting



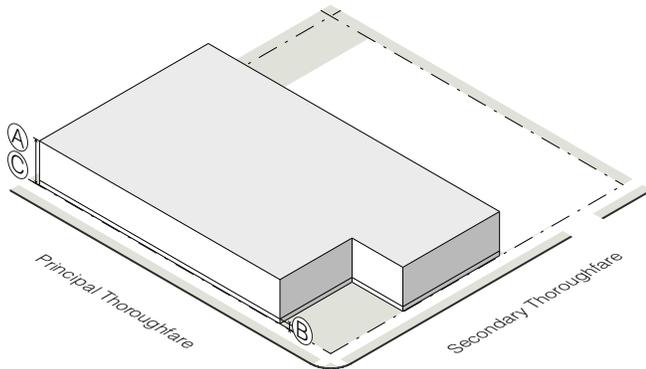
#### Building Setbacks

(A)	Front yard (min/max)	0'/0'
(B)	Build-to percentage, front facade (min)	85%
(C)	Corner side yard (min/max)	0'/0'
(D)	Build-to percentage, corner side facade (min)	85%
(E)	Interior side yards (min/max total)	0'/30' <sup>1</sup>
(F)	Rear yard (min)	0'; 15% of lot depth, but need not be greater than 15', if rear lot line abuts an N-2R, N-3R, N-4-30, or N-4-50 zone

#### Supplemental Standards

1. In an N-3E zone, a maximum total of 45' may be permitted for interior side yards, only where the City Planning Board expressly permits parking in an interior side yard as part of major site plan review, per Section 8.3.3.A.3.

### E. Height



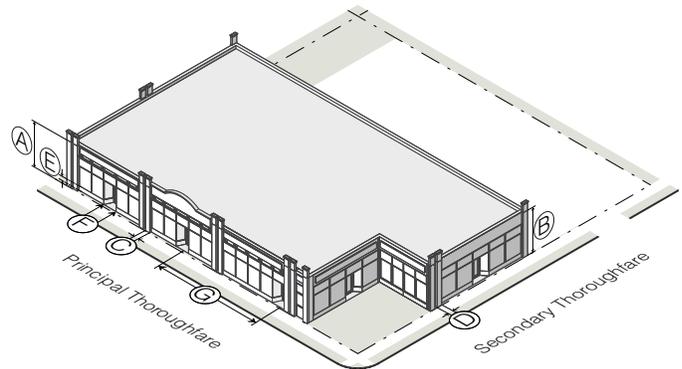
#### Building Height

(A)	Building height	1 story
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#### Story Height

(B)	Finished ground floor level (min/max)	0'/2'
(C)	Ground story height (min)	18'

### F. Activation



#### Transparency

(A)	Ground floor transparency, front facade (min)	70%
(B)	Ground floor transparency, corner side facade (min)	40%
(C)	Ground floor blank wall width, front facade (max)	10'
(D)	Ground floor blank wall width, corner side facade (max)	30'
(E)	Ground floor window sill height, front and corner side facades (min/max)	0.5'/2.5'

#### Pedestrian Access

(F)	Main entrance location (required)	Front facade
(G)	Entrance spacing along front facade (preferred)	At least 1 entrance every 30' <sup>1</sup>

#### Supplemental Standards

1. See Section 3.2.1.J for entrance spacing requirements which apply in specified sections of Elmwood Village.

**G. Specific Standards**

1. Vertical articulation is required (e.g. bays, mullions, columns, piers, pilasters, recessed entries, awnings, or other architectural treatments) to visually break up the massing of the front and corner side facades into segments no greater than 25 feet in width.
2. Alterations should not cover, infill, remove, or damage significant, original architectural elements of existing shopfront buildings that are visible from the adjacent public right-of-way. In cases where original architectural elements are in poor condition and cannot be restored, replication of original elements with new elements is encouraged.
3. A main entrance must effectively address the adjacent public realm and be given prominence on the building facade. This may be satisfied through the use of architectural features such as entranceway roofs; entranceway recesses; a chamfered corner; sidelight windows, transom window, or other adjacent windows; additional mouldings with expression lines; or a bay of unique width.
4. Exterior facade materials are restricted on shopfront buildings, as follows:
  - a. Exterior insulating finishing systems (EIFS) are prohibited on front and corner side facades.
  - b. Standard, fluted, or split face concrete masonry units (CMUs) are prohibited above the basement level on front and corner side facades. Glazed or heavily polished CMUs are allowed.
  - c. Vinyl siding is prohibited.
  - d. Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15% is prohibited.
5. Vents, air conditioners, and other utility elements, except where such elements are enclosed, camouflaged, screened, obscured, or otherwise not readily apparent to a casual observer, are

prohibited as part of a front or corner side facade.

6. Security devices such as coiling shutters and accordion gates are prohibited on front or corner side facades, except where such devices are at least 50% transparent and located wholly behind a window or door, when viewed from the public right-of-way.

### 3.2.10 SHOPFRONT HOUSE



#### A. Description

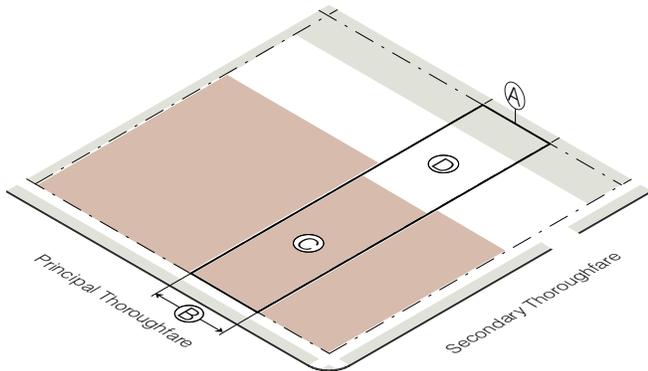
A shopfront house is a detached house or attached house with an attached shopfront. A building type which is unique to Buffalo, a shopfront house is usually the result of, and key facilitator for, the evolution of a residential environment to a mixed-use environment.

#### B. Frontage Elements

The following frontages are allowed for the shopfront house building type, subject to the requirements of Section 3.3:

- |  |  |
|--|--|
| <span style="color: #4F81BD;">■</span> Arcade  | <span style="color: #4F81BD;">■</span> Forecourt |
| <span style="color: #007060;">■</span> Awning  | <span style="color: #4F81BD;">■</span> Plaza     |
| <span style="color: #007060;">■</span> Balcony | <span style="color: #4F81BD;">■</span> Porch     |
| <span style="color: #007060;">■</span> Canopy  | <span style="color: #007060;">■</span> Stoop     |

### C. Lot



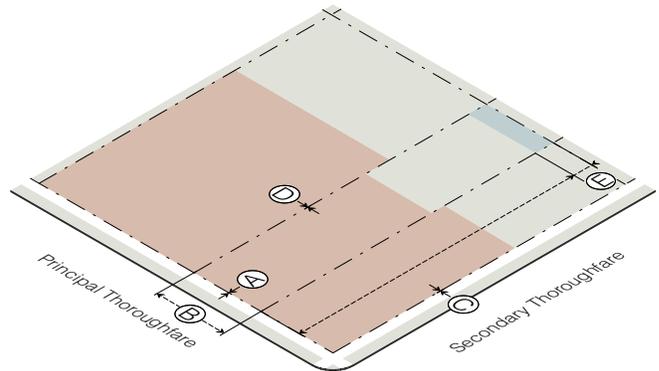
#### Lot Dimensions

Ⓐ	Lot area (min)	
	N-2C, N-2E	1,500 SF
	N-3C, N-3E	1,800 SF
Ⓑ	Lot width (min/max)	
	N-2C, N-2E	25'/60'
	N-3C, N-3E	30'/75'

#### Lot Coverage

Ⓒ	Building coverage (max)	90%
Ⓓ	Impervious coverage (max)	100%

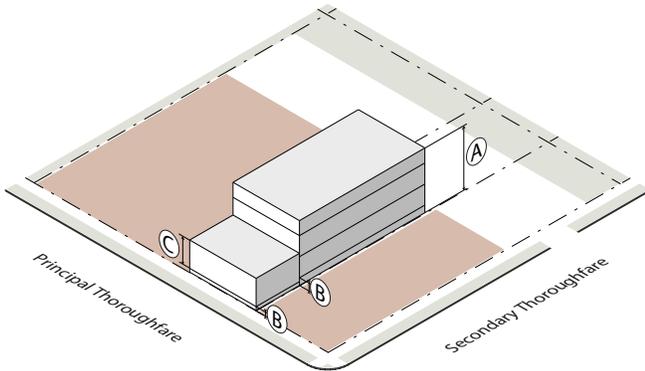
### D. Siting



#### Building Setbacks

Ⓐ	Front yard (min/max)	0'/0'
Ⓑ	Build-to percentage, front facade (min)	85%
Ⓒ	Corner side yard (min/max)	
	Shopfront portion	0'/0'
	House portion	0'/15'
Ⓓ	Interior side yard (min/max)	0'/30'
Ⓔ	Rear yard (min)	15% of lot depth, but need not be greater than 15'

## E. Height



### Building Height

(A)	Building height (max)	3 stories, 44' <sup>1</sup>
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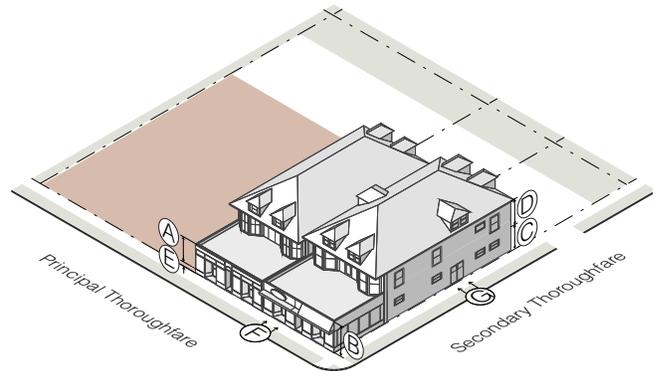
### Story Height

(B)	Finished ground floor level (min/max)	0'/2' for shopfront portion, 1.5'/4' for house portion
(C)	Ground story height (min)	15' for shopfront portion

#### Supplemental Standards

1. See Section 3.2.1.G for height limit exceptions which apply along specified sections of Delaware Avenue, Main Street, and Niagara Street in the N-2C and N-2E zones.

## F. Activation



### Transparency

(A)	Ground floor transparency, front facade (min)	70%
(B)	Ground floor transparency, corner side facade, shopfront portion (min)	40%
(C)	Ground floor transparency, corner side facade, house portion (min)	20%
(D)	Upper floor transparency, front and corner side facades (min)	20%
(E)	Ground floor window sill height, front and corner side facades, shopfront portion (min/max)	0.5'/2.5'

### Pedestrian Access

(F)	Main entrance location, shopfront portion (required)	Front facade
(G)	Main entrance location, house portion (required)	Front, corner side, or interior side facade
Entrance spacing along front facade commercial space (preferred)		At least 1 entrance every 30' <sup>1</sup>

#### Supplemental Standards

1. See Section 3.2.1.J for entrance spacing requirements which apply in specified sections of Elmwood Village.

**G. Specific Standards**

1. Vertical articulation is required (e.g. bays, mullions, columns, piers, pilasters, recessed entries, awnings, or other architectural treatments) to visually break up the massing of the ground story of front and corner side facades of the shopfront portion into segments no greater than 25 feet in width.
2. A main entrance must effectively address the adjacent public realm and be given prominence on the building facade. This may be satisfied through the use of architectural features such as entranceway roofs; entranceway recesses; a chamfered corner; sidelight windows, transom window, or other adjacent windows; additional mouldings with expression lines; or a bay of unique width.
3. Alterations should not cover, infill, remove, or damage significant, original architectural elements of existing shopfront buildings that are visible from the adjacent public right-of-way. In cases where original architectural elements are in poor condition and cannot be restored, replication of original elements with new elements is encouraged.
4. Exterior facade materials are restricted on shopfront houses, as follows:
  - a. Exterior insulating finishing systems (EIFS) are prohibited on the front and corner side facades.
  - b. Standard, fluted, or split face concrete masonry units (CMUs) are prohibited above the basement level on front and corner side facades. Glazed or heavily polished CMUs are allowed.
  - c. Vinyl siding is prohibited on the shopfront section of the building.
  - d. Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15% is prohibited.
5. Security devices such as coiling shutters and accordion gates are prohibited on front or corner

side facades, except where such devices are at least 50% transparent and located wholly behind a window or door, when viewed from the public right-of-way.

### 3.2.11 STACKED UNITS



#### A. Description

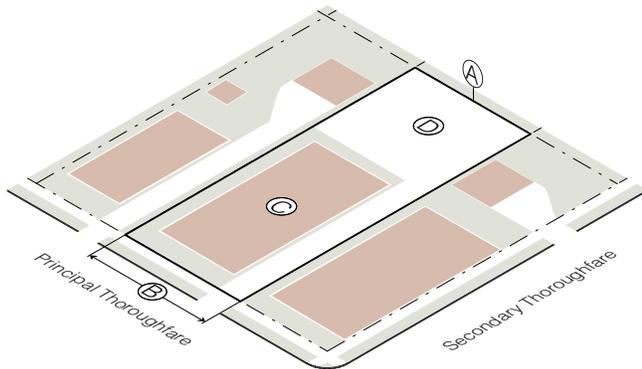
A stacked unit building is a general multi-story building that can facilitate a variety of uses, typically connected by one or more shared entries.

#### B. Frontage Elements

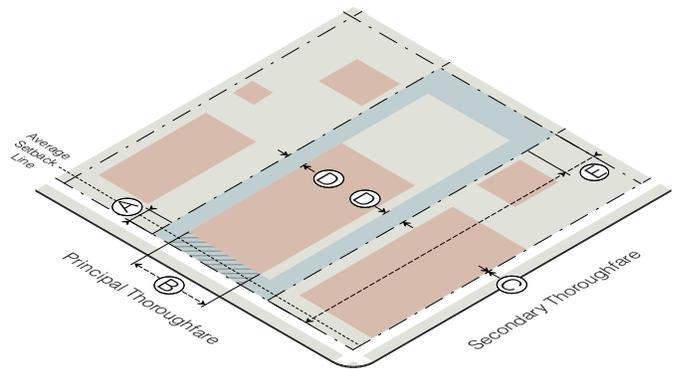
The following frontage elements are allowed for the stacked units building type, subject to the requirements of Section 3.3:

- Arcade
  - Awning
  - Balcony
  - Canopy
- Forecourt
  - Plaza
  - Porch
  - Stoop

### C. Lot



### D. Siting



#### Lot Dimensions

Ⓐ	Lot area (min)	1,800 SF
Ⓑ	Lot width (min/max)	
	N-1D, N-1C	30'/none
	N-2E	30'/120'
	N-3E	30'/150'
	N-2R	25'/60' interior lot, 25'/100' corner lot
	N-3R	30'/75' interior lot, 30'/100' corner lot

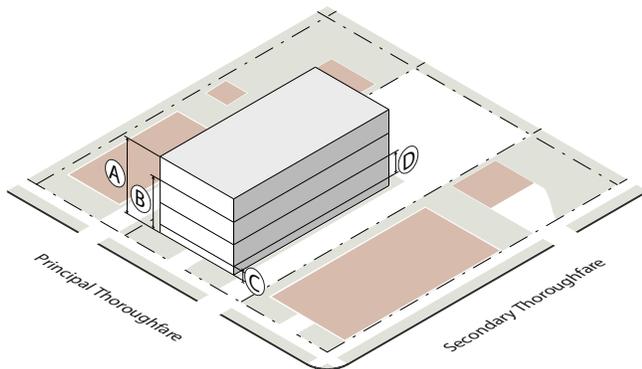
#### Lot Coverage

Ⓒ	Building coverage (max)	
	N-1D, N-1C	100%
	N-2E, N-2R, N-3E, N-3R	70%
Ⓓ	Impervious coverage (max)	
	N-1D, N-1C	100%
	N-2E, N-2R, N-3E, N-3R	80%

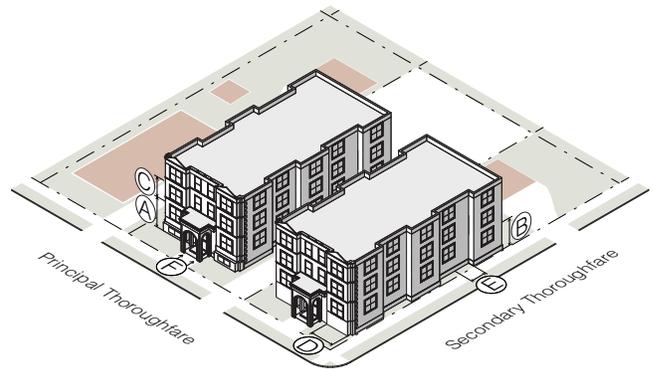
#### Building Setbacks

Ⓐ	Front yard (min/max)	
	N-1D, N-1C	0'/0'
	N-2E, N-2R, N-3E, N-3R	+/- 5' from established front yard line
Ⓑ	Build-to percentage, front facade (min)	85%
Ⓒ	Side yards (min total)	
	N-1D, N-1C, N-2E, N-3E	N/A
	N-2R, N-3R	20% of lot width
Ⓓ	Corner side yard (min/max)	
	N-1D, N-1C	0'/0'
	N-2E, N-3E	0'/15'
	N-2R, N-3R	3'/15'
Ⓓ	Interior side yard (min/max)	
	N-1D, N-1C	0'/30'
	N-2E, N-2R, N-3E, N-3R	3'/30'
Ⓔ	Rear yard (min)	
	N-1D, N-1C	0'; 15% of lot depth, but need not be greater than 15', if rear lot line abuts an N-2R, N-3R, N-4-30, or N-4-50 zone
	N-2E, N-2R	15% of lot depth
	N-3E, N-3R	20% of lot depth

## E. Height



## F. Activation



### Building Height

Ⓐ	Building height (max)	
	N-1D	1.75 times the width of the widest adjacent thoroughfare <sup>1</sup>
	N-1C	1.25 times the width of the widest adjacent thoroughfare
	N-2E, N-3E	3 stories, 44' <sup>2</sup>
	N-2R, N-3R	3 stories, 40' <sup>2</sup>
Ⓑ	Building height (min)	
	N-1D	4 stories
	N-1C	3 stories
	N-2E, N-2R, N-3E, N-3R	2 stories

#### Supplemental Standards

- Buildings taller than 1.75 times the width of the widest adjacent thoroughfare in the N-1D zone must comply with the standards for towers in Section 3.2.12.
- See Section 3.2.1.G for height limit exceptions which apply along specified sections of Delaware Avenue, Gates Circle, and North Street in the N-2R zone; and along specified sections of Delaware Avenue, Main Street, and Niagara Street in the N-2E zone.

### Story Height

Ⓒ	Finished ground floor level (min/max)	0'/4'
Ⓓ	Ground story height (min)	
	N-1D, N-1C	13'
	N-2E, N-2R, N-3E, N-3R	10'

### Transparency

Ⓐ	Ground floor transparency, front facade (min)	30% <sup>1</sup>
Ⓑ	Ground floor transparency, corner side facade (min)	30%
Ⓒ	Upper floor transparency, front and corner side facades (min)	25%
Ⓓ	Ground floor blank wall width, front facade (max)	10'
Ⓔ	Ground floor blank wall area, corner side facade (max)	30'

#### Supplemental Standards

- The minimum transparency for the front facade of ground-floor commercial space is 50%, except where such commercial space is accessed only from an interior lobby and is intended to primarily serve the tenants of the building.

### Pedestrian Access

Ⓕ	Main entrance location (required)	
	N-1D, N-1C, N-2E, N-3E	Front facade
	N-2R, N-3R	Front or corner side facade
Entrance spacing along front facade commercial space (preferred)		At least 1 entrance every 30' <sup>1</sup>

#### Supplemental Standards

- See Section 3.2.1.J for entrance spacing requirements which apply in specified sections of Elmwood Village.

## G. Specific Standards

1. Exterior facade materials are restricted on stacked unit buildings, as follows:
  - a. Exterior insulating finishing systems (EIFS) are prohibited on the ground story of front and corner side facades, and are limited to 20% on upper stories of front and corner side facades.
  - b. Standard, fluted, or split face concrete masonry units (CMUs) above the basement level are prohibited.
  - c. Vinyl siding is prohibited.
  - d. Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15% is prohibited.
2. Vents, air conditioners, and other utility elements, except where such elements are enclosed, camouflaged, screened, obscured, or otherwise not readily apparent to a casual observer, are prohibited as part of a front or corner side facade.
3. Security devices such as coiling shutters and accordion gates are prohibited on front or corner side facades, except where such devices are at least 50% transparent and located wholly behind a window or door, when viewed from the public right-of-way.

### 3.2.12 TOWER



#### A. Description

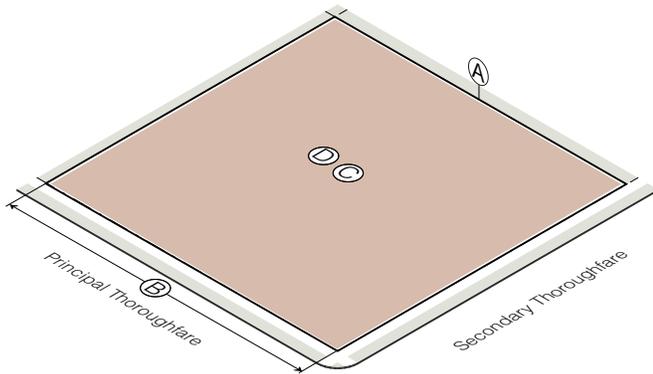
A tower is a stacked unit or commercial block building of substantial height, typically designed with upper-story stepbacks to ensure adequate light and air at the sidewalk level. A tower contributes to the skyline of the downtown and reinforces high density at the region's public transit hub.

#### B. Frontage Elements

The following frontage elements are allowed for the tower building type, subject to the requirements of Section 3.3:

- |   |   |
|---|---|
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #0070C0; margin-right: 5px;"></span> Arcade  | <span style="display: inline-block; width: 15px; height: 15px; background-color: #0070C0; margin-right: 5px;"></span> Forecourt |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #0070C0; margin-right: 5px;"></span> Awning  | <span style="display: inline-block; width: 15px; height: 15px; background-color: #0070C0; margin-right: 5px;"></span> Plaza     |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #0070C0; margin-right: 5px;"></span> Balcony | <span style="display: inline-block; width: 15px; height: 15px; background-color: #A6C9E0; margin-right: 5px;"></span> Porch     |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #0070C0; margin-right: 5px;"></span> Canopy  | <span style="display: inline-block; width: 15px; height: 15px; background-color: #A6C9E0; margin-right: 5px;"></span> Stoop     |

### C. Lot



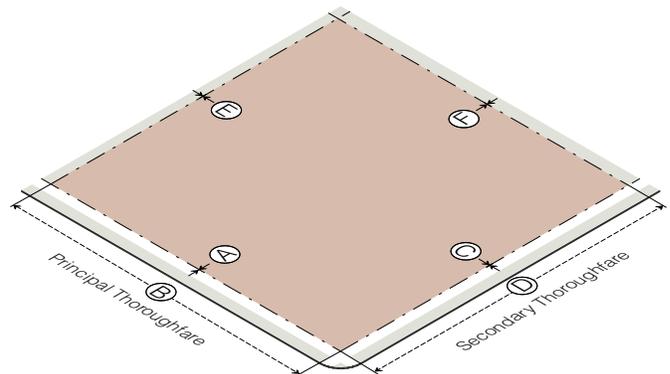
#### Lot Dimensions

Ⓐ	Lot area (min)	N/A
Ⓑ	Lot width (min)	N/A

#### Lot Coverage

Ⓒ	Building coverage (max)	100%
Ⓓ	Impervious coverage (max)	100%

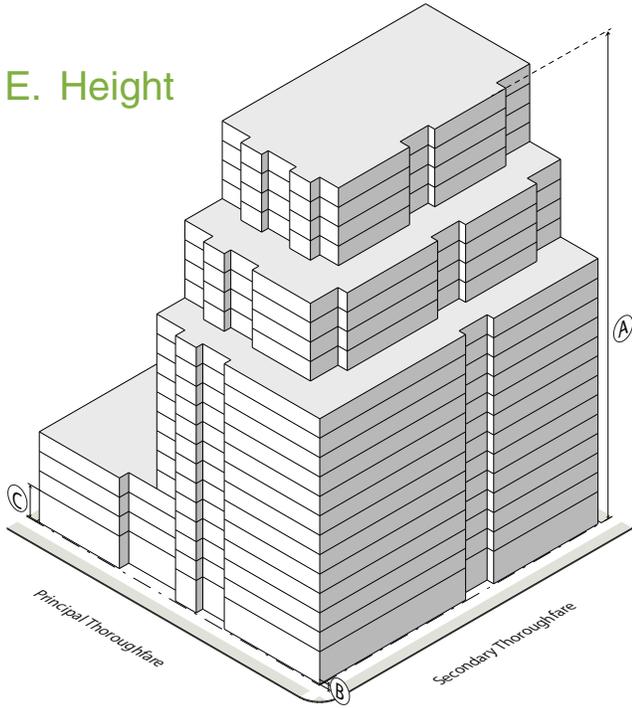
### D. Siting



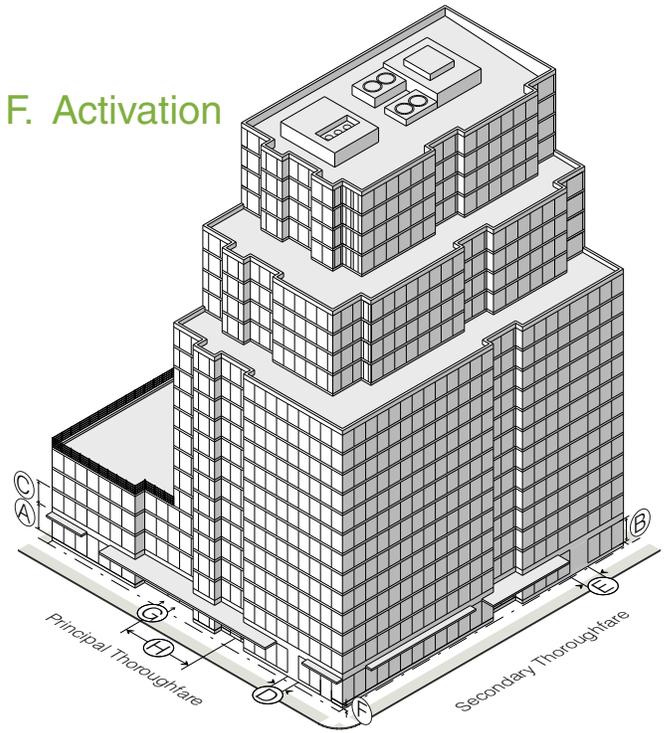
#### Building Setbacks

Ⓐ	Front yard (min/max)	0'/0'
Ⓑ	Build-to percentage, front facade (min)	85%
Ⓒ	Corner side yard (min/max)	0'/0'
Ⓓ	Build-to percentage, corner side facade (min)	85%
Ⓔ	Interior side yard (min/max)	0'/30'
Ⓕ	Rear yard (min)	0'; 15% of lot depth, but need not be greater than 15', if rear lot line abuts an N-2R, N-3R, N-4-30, or N-4-50 zone

### E. Height



### F. Activation



#### Building Height

A	Building height (max)	
	N-1D	1.75 times the width of the widest adjacent thoroughfare, plus 3.5' for each 1' of upper-story stepback

#### Story Height

B	Finished ground floor level (min/max)	0'/2'
C	Ground story height (min)	18'

#### Transparency

A	Ground floor transparency, front facade (min)	70%
B	Ground floor transparency, corner side facade (min)	40%
C	Upper floor transparency, front and corner side facades (min)	25%
D	Ground floor blank wall width, front facade (max)	10'
E	Ground floor blank wall width, corner side facade (max)	30'
F	Ground floor window sill height, front and corner side facades (min/max)	0.5'/2.5'

#### Pedestrian Access

G	Main entrance location (required)	Front facade
H	Entrance spacing along front and corner side facades (preferred)	At least 1 entrance every 30'

**G. Specific Standards**

1. Any building that is taller than 1.75 times the width of the widest adjacent thoroughfare in the N-1D zone must comply with the form standards for towers.
2. A tower may not cast new shadows upon any D-OG, D-OS, or D-ON zone from 12 noon to 2 pm on September 21.
3. Tower tops should incorporate distinctive design and lighting characteristics to give character to the Buffalo skyline. Examples include tops that exhibit a taper, pinnacle, or articulated canopy.
4. A main entrance must effectively address the adjacent public realm and be given prominence on the building facade. This may be satisfied through the use of architectural features such as entranceway roofs; entranceway recesses; a chamfered corner; sidelight windows, transom window, or other adjacent windows; additional mouldings with expression lines; or a bay of unique width.
5. Towers that abut two parallel thoroughfares are encouraged to provide a continuous, weather protected through-block passage, between such thoroughfares, that is accessible to the general public during regular business hours.
6. Exterior facade materials are restricted on Towers, as follows:
  - a. Exterior insulation and finishing systems (EIFS) are prohibited on any portion of any facade visible from a public right-of-way
  - b. Standard, fluted, or split face concrete masonry units (CMUs) are prohibited on any portion of any facade visible from a public right-of-way. Glazed or heavily polished CMUs are allowed.
  - c. Vinyl siding is prohibited
  - d. Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15% is prohibited.
7. Vents, air conditioners, and other utility elements, except where such elements are enclosed, camouflaged, screened, obscured, or otherwise not readily apparent to a casual observer, are prohibited where visible from a public right-of-way.
8. Security devices such as coiling shutters and accordion gates are prohibited on front or corner side facades, except where such devices are at least 50% transparent and located wholly behind a window or door, when viewed from the public right-of-way.

### 3.3 FRONTAGE ELEMENTS

#### 3.3.1 General

- A.** This section describes the standards applicable to the development of frontages, which are the optional elements of a building or site that help provide a transition and interface between the public realm (street and sidewalk) and the private realm (yard or building). These standards work in combination with the standards for building types found in Section 3.2 and are applicable to all frontages in the neighborhood zones.
- B.** Table 3B: Frontage Elements identifies the frontages allowed by building type, with cross-references for frontage definitions and standards that apply.
- C.** Any frontage element, as described in Sections 3.3.2 to 3.3.9, that encroaches upon a public right-of-way requires an encroachment permit per Section 11.4.1.

TABLE 3B: FRONTAGE ELEMENTS

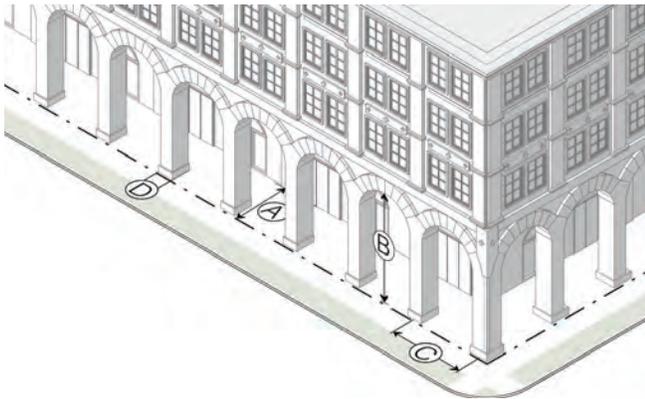
	Attached House	Carriage House	Civic Building	Commercial Block	Detached House	Flex Building	Loft Building	Shopfront	Shopfront House	Stacked Units	Tower	Definitions/ Standards
Arcade			●	●							●	Section 3.3.2
Awning	●	●	●	●	●	●	●	●	●	●	●	Section 3.3.3
Balcony	●	●	●	●	●		●		●	●	●	Section 3.3.4
Canopy	●	●	●	●	●	●	●	●	●	●	●	Section 3.3.5
Forecourt			●	●		●	●	●		●	●	Section 3.3.6
Plaza*			◐	◐		◐	◐			◐	◐	Section 3.3.7
Porch	●	●	●		●					●		Section 3.3.8
Stoop	●	●	●		●				●	●		Section 3.3.9

● Permitted

◐ Only permitted through major site plan review

\*A plaza is permitted only in the N-1D, N-1C, or N-1S zones

### 3.3.2 Arcade



#### Description

An arcade is a passage located along the exterior walls of a building and covered by the building's upper stories.

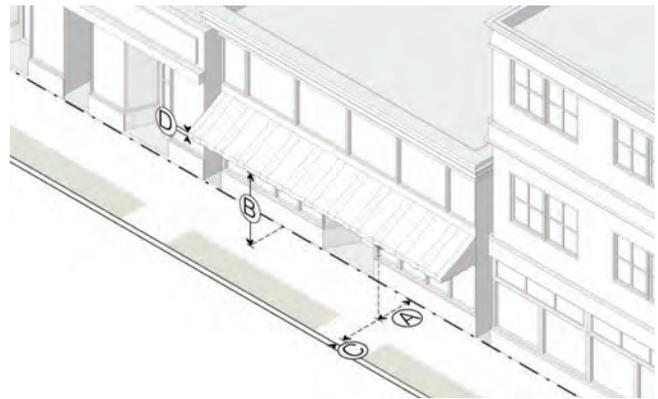
#### Dimensions

Ⓐ	Recess from the building facade (min/max)	12'/20'
Ⓑ	Interior vertical clearance (min)	At least the depth of the arcade recess
Ⓒ	Column or pier spacing, on-center (min)	At least half the width of the height of the first story
Ⓓ	Column or pier width (min/max)	1.5'/4'

#### Specific Standards

1. An arcade must be open on three sides, where possible.
2. An arcade must be level with the adjoining sidewalk.
3. Columns or piers should generally be evenly spaced across the width of the arcade.
4. An arcade must align with and provide continuous passage to any existing arcade in an adjoining building.
5. An arcade may not contain driveways, parking spaces, passenger drop-offs, garage entrances, loading berths, exhaust vents, mechanical equipment, or refuse and recycling storage areas.
6. An arcade may not encroach on a public right-of-way.

### 3.3.3 Awning



#### Description

An awning is a wall-mounted, pitched cover extending from a building and providing protection from the weather.

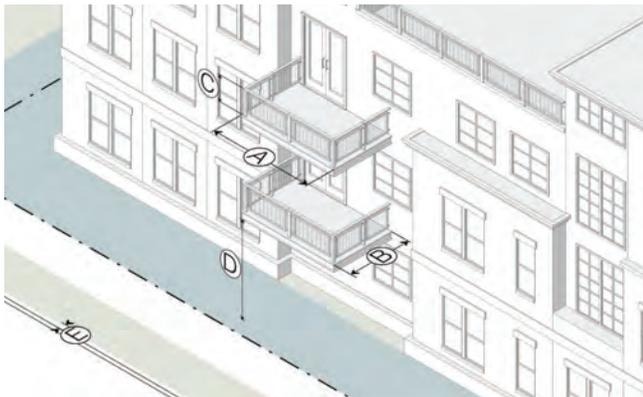
#### Dimensions

Ⓐ	Projection from building facade (min)	3'
Ⓑ	Vertical clearance from sidewalk level, excluding valance (min)	7.5'
Ⓒ	Setback from curb line (min)	1.5'
Ⓓ	Valance height (max)	6"
Separation between support posts, if applicable (min)		5'

#### Specific Standards

1. An awning must be securely attached to and supported by the building, and must fit the windows or doors to which the awning is attached. All frames and supports must be made of metal or similar rigid material. Frames and supports made of wood or plastic are prohibited.
2. An awning must be made of a durable, weather-resistant material, such as canvas, canvas-like material, nylon, vinyl-coated fabric, or metal.
3. Open-ended awnings and operable awnings are encouraged. Rounded and hooped awnings are discouraged. Internally illuminated awnings are prohibited.
4. An awning must not extend across more than one story of the building to which it is attached.
5. An awning used as an on-premise sign is subject to the additional requirements of Section 9.2.2.

### 3.3.4 Balcony



#### Description

A balcony is a platform projecting from, or recessed within, the upper floors of a building facade.

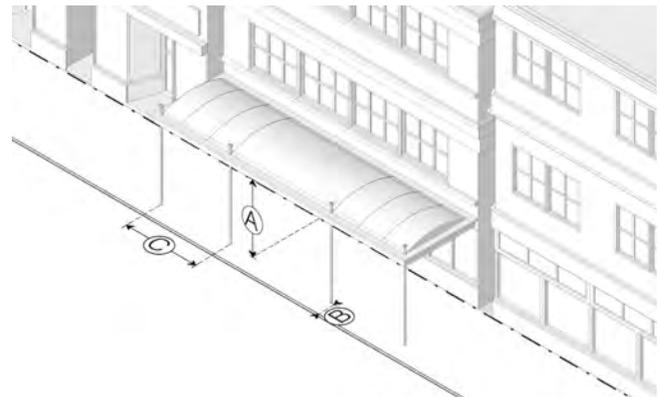
#### Dimensions

(A)	Width (min)	4'
(B)	Projection from building facade (max)	8'
(C)	Railing height (max)	5'
(D)	Vertical clearance from sidewalk level (min)	9'
(E)	Setback from curb line (min)	1.5'

#### Specific Standards

1. A balcony must remain open on all sides except those along an exterior wall to which it is attached.
2. A balcony must be fully supported by the building, with no posts extending to the ground.
3. A balcony may not encroach on a public right-of-way.

### 3.3.5 Canopy



#### Description

A canopy is a horizontal cover, extending outward from a building, providing protection from the weather.

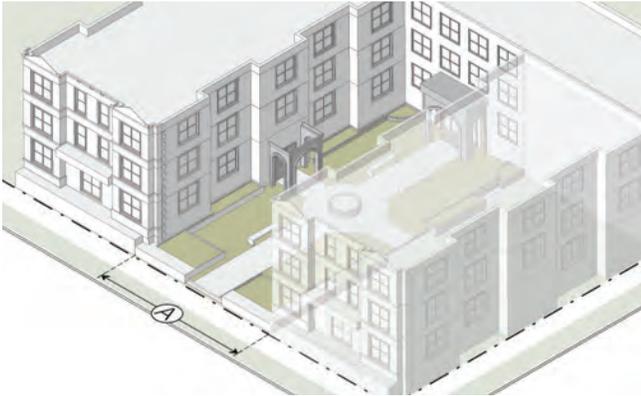
#### Dimensions

(A)	Vertical clearance from sidewalk level (min)	7.5'
(B)	Setback from curb line (min)	1.5'
(C)	Separation between posts, if applicable (min)	5'

#### Specific Standards

1. A canopy must be securely attached to the building, and must be supported by the building or by support posts that extend to the ground. All frames and supports must be made of metal or similar rigid material. Frames and supports made of wood or plastic are prohibited.
2. A canopy used as an on-premise sign is subject to the additional requirements of Section 9.2.4.

### 3.3.6 Forecourt



#### Description

A forecourt is a semi-public space, open to the sky, formed by a recess in the central portion of the building facade.

#### Dimensions

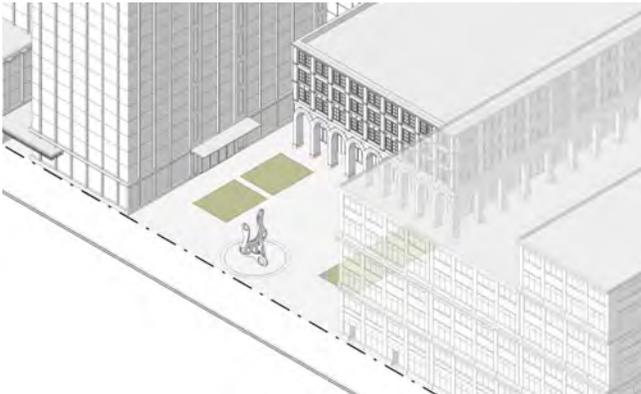
A	Width (min/max)	At least half the height of the enclosing walls / No more than twice the height of the enclosing walls
---	-----------------	--

7. A forecourt may not contain driveways, parking spaces, passenger drop-offs, garage entrances, loading berths, exhaust vents, mechanical equipment, or refuse and recycling storage.

#### Specific Standards

1. A forecourt must be enclosed by building walls on three sides.
2. No more than one forecourt is permitted per building.
3. A forecourt may not be at a higher elevation than the finished ground floor level of the building or more than two feet lower in elevation than the adjacent sidewalk.
4. A minimum of 25% of the forecourt must be composed of landscape. Any remaining non-landscaped area must be paved with hardscape material. Asphalt may not be used as a forecourt surface material.
5. A forecourt of more than 2,000 square feet in area must contain a central marker, such as a fountain or sculpture, to provide orientation and identity.
6. Porches, stoops, awnings, canopies, and galleries may encroach into the forecourt, provided that they do not occupy more than one-fifth the total courtyard area.

### 3.3.7 Plaza



#### Description

A plaza is a public space that is formed by a building setback, open to the sky, and designed for intensive public use.

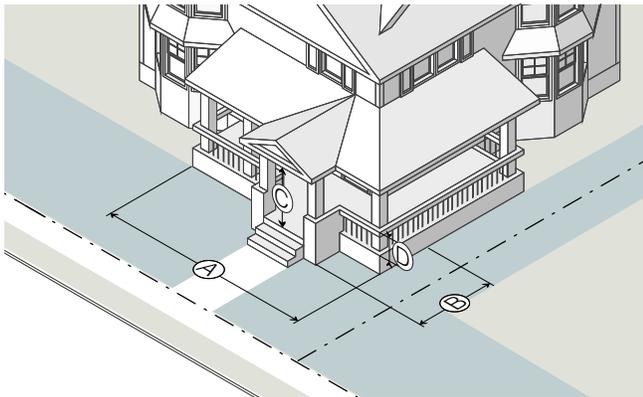
#### Dimensions

Area (max)	No more than 25% of the lot area
------------	----------------------------------

#### Specific Standards

1. A plaza of 2,000 square feet or more in area must be organized around one or more central markers, such as a fountain or sculpture, to establish orientation and identity.
2. A plaza should be sized proportional to its anticipated public use; i.e., on a temperate, sunny day, it would typically be inhabited by at least one person per 300 square feet of publicly accessible surface area.
3. Circulation within the plaza must follow the probable desire lines of its users, connecting pedestrians to rights-of-way on which the plaza abuts and major design features of the plaza, such as seating areas or open air cafes.
4. No surface area of the plaza may be more than two feet above or below the adjacent sidewalk level, except to accommodate a grade change between destinations.
5. A plaza must be surfaced with high quality, durable impervious or semi-pervious materials, such as concrete, brick, or stone pavers, covering at least 75% of the surface area. Any non-paved area of the plaza must be landscaped.
6. No surface area of a plaza may be sloped, unless required for stormwater management or to comply with Americans with Disabilities Act (ADA) standards.
7. One linear foot of seating must be provided for each linear foot of plaza perimeter. Six types of seating may be used to satisfy the seating requirements: moveable seating, fixed individual seats, fixed benches, seat walls, planter ledges, and seating steps. Deterrents to seating, such as spikes, rails, or deliberately uncomfortable materials or shapes, placed on surfaces that would otherwise be suitable for seating, are prohibited.
8. The siting of the plaza should not be such that the plaza faces primarily north, casting the plaza in shadow during much of the year.
9. Spaces for retail and service uses, such as restaurants, coffee shops, or newsstands, are encouraged to open out onto the plaza or be located within the plaza.
10. A plaza may not contain driveways, parking spaces, passenger drop-offs, garage entrances, loading berths, exhaust vents, mechanical equipment, or refuse and recycling storage.
11. A plaza may be allowed only in the N-1D, N-1C, or N-1S zones, by the express permission of the City Planning Board during major site plan review, per Section 11.3.7.

### 3.3.8 Porch



#### Description

A porch is a raised, roofed platform attached to a building forming an articulated entryway and semi-private social space.

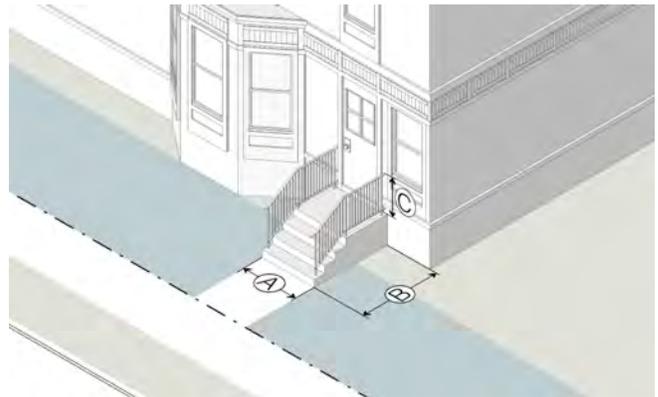
#### Dimensions

(A)	Width (min)	10'
(B)	Projection from building facade (min/max)	6'/12'
(C)	Interior vertical clearance (min)	8'
(D)	Railing height (max)	4'

#### Specific Standards

1. A porch must be open on all sides except those along an exterior wall to which the porch is attached.
2. A porch may have as many levels as there are full stories of the building. Each porch level must have a door, providing access to the building.
3. A ground level porch must be roofed.
4. A porch may not encroach on a public right-of-way.

### 3.3.9 Stoop



#### Description

A stoop is a small raised platform that serves as an entryway to a building.

#### Dimensions

(A)	Width (min)	4'
(B)	Projection from building facade (min/max)	4'/10'
(C)	Railing height (max)	4'

#### Specific Standards

1. A stoop must remain open on all sides except those along an exterior wall to which it is attached.
2. A stoop may be roofed or unroofed. If roofed, the stoop must maintain an interior vertical clearance of at least eight feet.
3. A stoop must contain stairs leading to the ground level. The stairs may lead directly to the sidewalk or be side-loaded.
4. A stoop may encroach upon a public right-of-way only if no other feasible alternative is available, only to the extent necessary to ensure adequate building access, and only if an encroachment permit is approved per Section 11.4.1.

## 3.4 OVERLAYS

Overlay zones are applied over one or more neighborhood zones, establishing additional or stricter standards and criteria for covered properties in addition to those of the underlying zone. These overlay zones are introduced to address special situations or achieve specific goals.

### 3.4.1 N-DER Downtown Entertainment Review Overlay

#### A. Purpose

1. The Common Council finds that, in the Downtown Entertainment Review Overlay, there has been an increase in the amount of alcohol-related, criminal, and violent activities involving individuals under the age of 21 years of age who have been illegally served alcohol, resulting in confrontations and criminal activity within the public rights-of-way and open spaces located within this area.
2. The Common Council further finds that this increase in alcohol-related, violent, and criminal activity has threatened the vitality of the area and that the balance between the general public's right to use and enjoy these public spaces and to legally patronize establishments that serve alcohol, and the right of those under 21 years of age to use and enjoy these public spaces, is being jeopardized by these alcohol-related incidents.
3. The Common Council further finds that events which permit commingling of patrons who are under or over 21 years of age without adequate security plans or personnel to ensure that those under the age of 21 are not served or able to consume alcohol has increased the likelihood of criminal activity against pedestrians, motorists, and property and resulted in excessive noise, annoyance, vandalism, and interference with the general public's right to use and enjoy these public spaces, particularly between the hours of 10:00 p.m. at night and 4:00 a.m. the following morning.

**B. Boundaries.** The Downtown Entertainment Review Overlay includes all properties within the area bounded on the north by the center line of Tupper Street, on the east by all properties fronting on the east side of Main Street, on the west by all properties fronting on the west side of Elmwood Avenue, and on the south by the center line of Seneca Street.

**C. Permitted Uses.** Any of the uses which presently are allowed in the underlying zone or which may be enlarged by right pursuant to this Ordinance are permitted uses within the Downtown Entertainment Review Overlay, unless restricted by this section.

#### D. Special Use Permit

1. Any tavern licensed to serve alcohol at a particular establishment by the New York State Liquor Authority must not permit the entry of or continued presence of patrons under the age of 21 years of age at any such establishment within the Downtown Entertainment Review Overlay between the hours of 10:00 p.m. at night and 4:00 a.m. the following morning without first having applied for and received a special use permit, per Section 11.3.3.
2. For purposes of this overlay zone only, a tavern is defined as an establishment where alcoholic beverages are sold for on-site consumption and in which the service of food, if served at all, is incidental to the sale of such beverages, except for a bar located in a hotel/hostel. Examples of public places not deemed to be taverns within this definition include, but are not limited to, restaurants that do not have licenses to serve spirits; catering halls; bowling alleys; billiard parlors; roller rinks; pizzerias; laundromats; game rooms; gas stations; malls; convenience stores; hotel or hostel lobbies; concert, musical or stage production venues, or theaters; schools; and amusement, entertainment and recreational facilities.

#### E. Event License

1. Any establishment seeking to hold a single event, a series of events, or a reoccurring

event, which would allow the entry or continued presence of patrons under the age of 21 on premises, while alcohol is being served to those patrons over the age of 21, between the hours of 10:00 p.m. and 4:00 a.m. the following morning within the Downtown Entertainment Review Overlay, must have a special use permit and file an application for a license on forms to be supplied by the City Clerk at least 30 days prior. The forms must be filled out by the applicant and approved as to form by the Department of Permit and Inspection Services, Office of Licenses. The City Clerk must forward the application to the Common Council immediately after the filing of the application.

2. The forms must include the name, date and time of the event; whether the event is one time only or recurring; how many people are anticipated to attend; how many security personnel will be utilized to provide security; any promoter that has been retained to promote the event; the proposed start and end times; the safeguards to be undertaken to ensure that all patrons under the age of 21 years of age are easily identifiable; any other information required by the license application form; and any other information deemed pertinent to City Clerk.
3. The Common Council may authorize and direct the approval or denial of the issuance of the license on the basis of the effect on the public health, safety, or welfare within the Downtown Entertainment Review Overlay. The Common Council may attach to such license such restrictions as are necessary or desirable in its judgment to ensure that the proposed event does not impact the surrounding area and the overall health, safety, welfare, and development of the community.

**F. Compliance.** Any person found in violation of this section will immediately have the premises closed by any Buffalo Police Officer or any officer of the Department of Permit and Inspection Services and will not be allowed to reopen until the following business day.

**G. Revocation.** Upon submission to the Common Council of a written report of the enforcing official of the City that a special use permit holder and/or licensee or any other business owner in the Downtown Entertainment Review Overlay is in violation of this section or the conditions established, a hearing will be scheduled by the Office of Licenses, at which time any special use permit holder or licensee in the Downtown Entertainment Review Overlay will have the opportunity to appear and dispute the charge. The Office of Licenses will then make a recommendation to the Commissioner of Permit and Inspection Services, who has the authority to revoke all licenses issued by the Department of Permit and Inspection Services.

# Article 4. District Zones

4.1 D-R Residential Campus .....4-3

4.2 D-M Medical Campus.....4-7

4.3 D-E Educational Campus ..... 4-11

4.4 D-S Strip Retail.....4-15

4.5 D-C Flex Commercial.....4-19

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4.9 D-OG Green .....4-35

4.10 D-ON Natural.....4-39

District zones correspond to specialized places serving a predominant use, such as retail centers, college campuses, or industrial sites. This article addresses form and dimensional standards particular to each district zone, while other supplementary articles, such as uses or site development, address standards that are typically common to all zones.

## 4.1 D-R RESIDENTIAL CAMPUS



### 4.1.1 Purpose

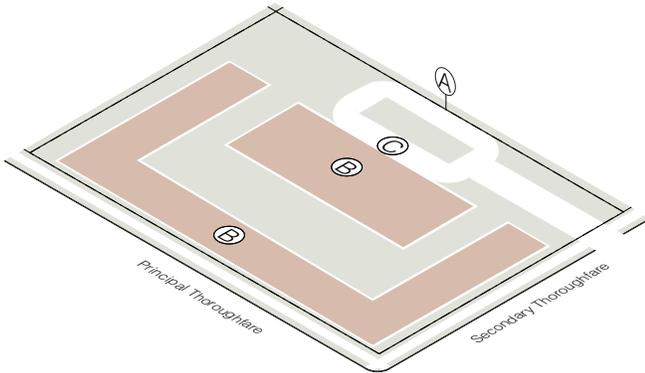
The D-R zone addresses residential campuses, sometimes comprised of garden apartments or towers in a park, and organized as a large-scale, integrated development.

### 4.1.2 General

All development in the D-R zone must comply with the form standards of this section, as well as any applicable standards in other sections, including the following:

Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 4.1.3 Lot



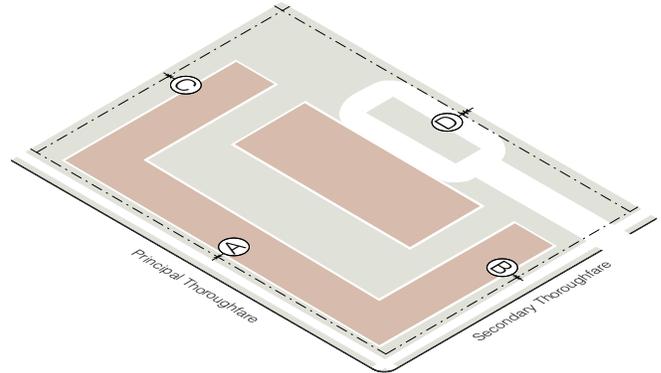
#### Lot Dimensions

(A)	Lot area (min)	N/A
	Lot width (min)	N/A

#### Lot Coverage

(B)	Building coverage (max)	80%
(C)	Impervious coverage (max)	90%

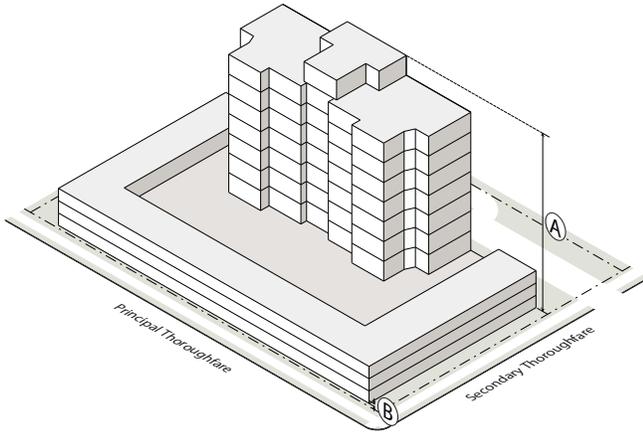
### 4.1.4 Siting



#### Building Setbacks

(A)	Front yard (min)	0'
(B)	Corner side yard (min)	0'
(C)	Interior side yard (min)	0'
(D)	Rear yard (min)	0'

### 4.1.5 Height



#### Building Height

A	Building height (max)	3 stories <sup>1</sup>
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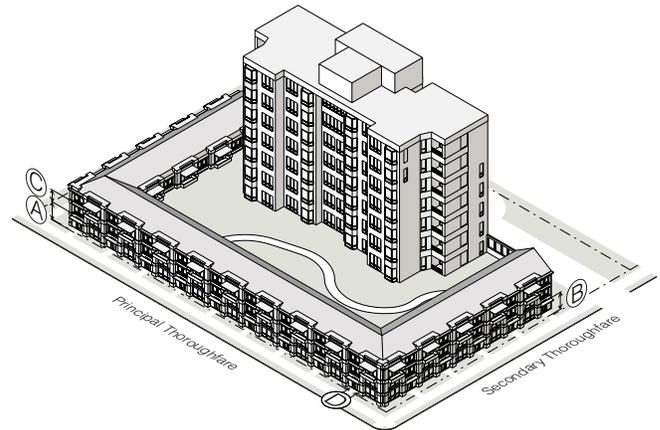
#### Supplemental Standards

1. The maximum height may be increased to up to 1 times the height of the widest adjacent thoroughfare, plus 1' for each 1' of upper story stepback, only with approval of City Planning Board as part of major site plan review.

#### Story Height

B	Finished ground floor level (min/max)	0'/4'
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### 4.1.6 Activation



#### Transparency

A	Ground floor transparency, front facade (min)	20% for residential uses; 70% for retail & service uses; 40% for all other uses
B	Ground floor transparency, corner side facade (min)	20% for residential uses; 40% for all other uses
C	Upper floor transparency, front and corner side facades (min)	20%

#### Pedestrian Access

D	Main entrance location (preferred)	Front facade
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#### 4.1.7 Specific Standards

- A.** For lots of one acre or more in area, a minimum of 10% of total contiguous area under single ownership or control must be devoted to accessible open space, such as squares, greens, or greenways, located at high-use portions of the site. This open space should be framed by building facades where possible and should comply with the standards of the D-OS and/or D-OG zone. In lieu of site-by-site compliance, property owners of contiguous lots within the same zone may provide this accessible open space on an aggregate basis, so long as the total area of the space is equal to or greater than the combined minimum required area of accessible open space for each individual lot and the space is within 1,320 feet of sites served.
- B.** All principal buildings, with the exception of those located more than 200 feet from a public thoroughfare, must be oriented to the thoroughfares onto which they face, with front and corner facades positioned parallel or radial to adjacent right-of-way lines.
- C.** The following exterior facade materials are prohibited on principal buildings:

  - 1.** Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15%.

## 4.2 D-M MEDICAL CAMPUS



### 4.2.1 Purpose

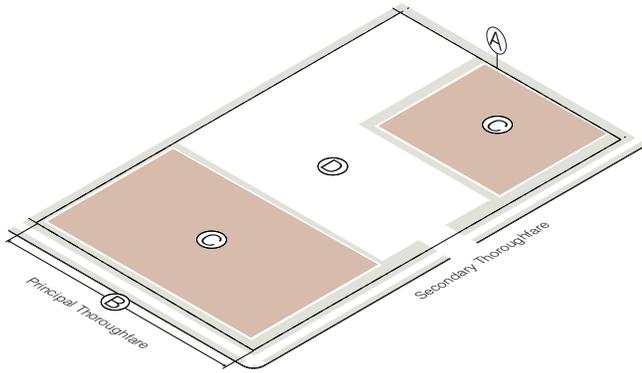
The D-M zone addresses medical campuses, which are either primarily single-use or mixed-use, and whose design and layout are based on their special function.

### 4.2.2 General

All development in the D-M zone must comply with the form standards of this section, as well as any applicable standards in other sections, including the following:

Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 4.2.3 Lot



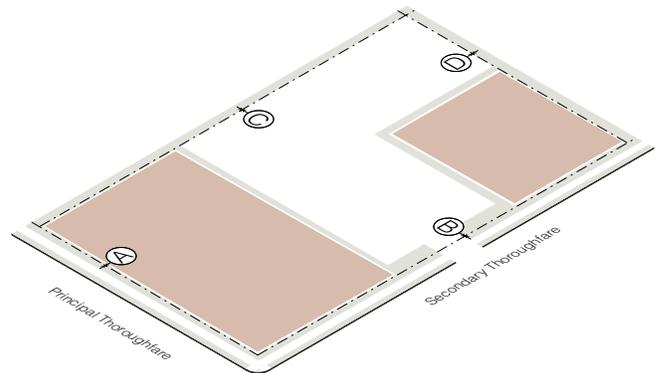
#### Lot Dimensions

Ⓐ	Lot area (min)	1,800 SF
Ⓑ	Lot width (min)	30'

#### Lot Coverage

Ⓒ	Building coverage (max)	90%
Ⓓ	Impervious coverage (max)	100%

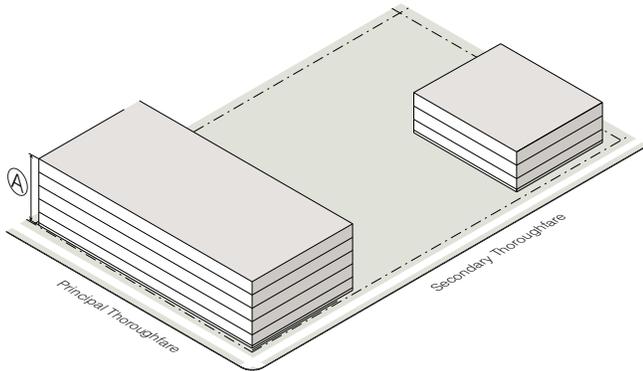
### 4.2.4 Siting



#### Building Setbacks

Ⓐ	Front yard (min)	0'
Ⓑ	Corner side yard (min)	0'
Ⓒ	Interior side yard (min)	0'
Ⓓ	Rear yard (min)	0'

## 4.2.5 Height



### Building Height

A	Building height (max)	6 stories <sup>1</sup>
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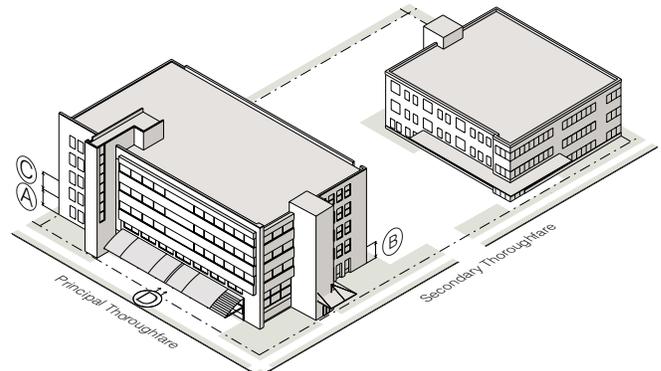
### Supplemental Standards

1. Up to 16 stories may be allowed only with approval of City Planning Board as part of major site plan review.

### Story Height

Finished ground floor level (min/max)	N/A
---------------------------------------	-----

## 4.2.6 Activation



### Transparency

A	Ground floor transparency, front facade (min)	30%; 60% if across a public right-of-way and within 150' of an N-1D, N-1C, N-2C, or N-3C zone
B	Ground floor transparency, corner side facade (min)	30%; 60% if across a public right-of-way and within 150' of an N-1D, N-1C, N-2C, or N-3C zone
C	Upper floor transparency, front and corner side facades (min)	20%

### Pedestrian Access

D	Main entrance location (required)	Front facade
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#### 4.2.7 Specific Standards

- A.** For lots of one acre or more in area, a minimum of 10% of total contiguous area under single ownership or control is encouraged to be devoted to accessible open space, such as squares, greens, or greenways, located at high-use portions of the site. This open space should be framed by building facades where possible and should comply with the standards of the D-OS and/or D-OG zone. In lieu of site-by-site compliance, property owners of contiguous lots within the same zone may provide this accessible open space on an aggregate basis, so long as the total area of the space is equal to or greater than the combined minimum required area of accessible open space for each individual lot and the space is within 1,320 feet of sites served.
- B.** All principal buildings, with the exception of those located more than 200 feet from a public thoroughfare, must be oriented to the thoroughfares onto which they face, with front and corner facades positioned parallel or radial to adjacent right-of-way lines.
- C.** The following exterior facade materials are restricted on principal buildings:

  - 1.** Exterior insulating finishing systems (EIFS) are prohibited on the ground story of front and corner side facades, and are limited to 20% on upper stories of front and corner side facades.
  - 2.** Standard, fluted, or split face concrete masonry units (CMUs) are prohibited above the basement level on front and corner side facades. Glazed or heavily polished CMUs are allowed.
  - 3.** Vinyl siding is prohibited.
  - 4.** Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15% is prohibited.

## 4.3 D-E EDUCATIONAL CAMPUS



### 4.3.1 Purpose

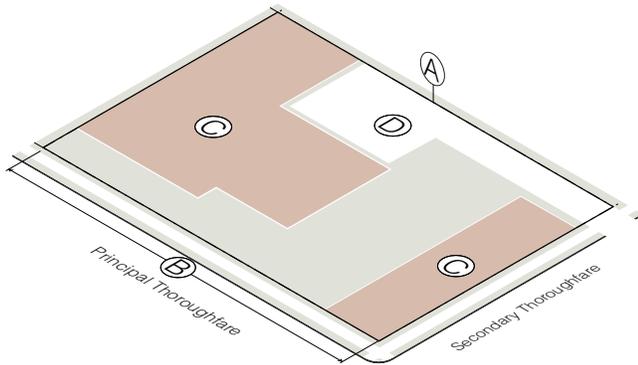
The D-E zone addresses educational campuses, often formally disposed, multiple-building sites centered around a series of interconnected open spaces.

### 4.3.2 General

All development in the D-E zone must comply with the form standards of this section, as well as any applicable standards in other sections, including the following:

Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 4.3.3 Lot



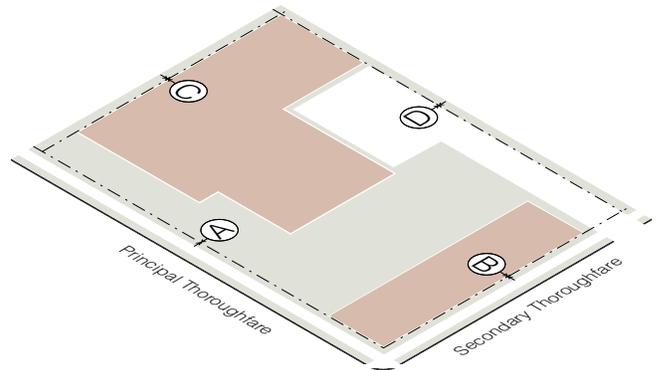
#### Lot Dimensions

Ⓐ	Lot area (min)	5,000 SF
Ⓑ	Lot width (min)	50'

#### Lot Coverage

Ⓒ	Building coverage (max)	90%
Ⓓ	Impervious coverage (max)	100%

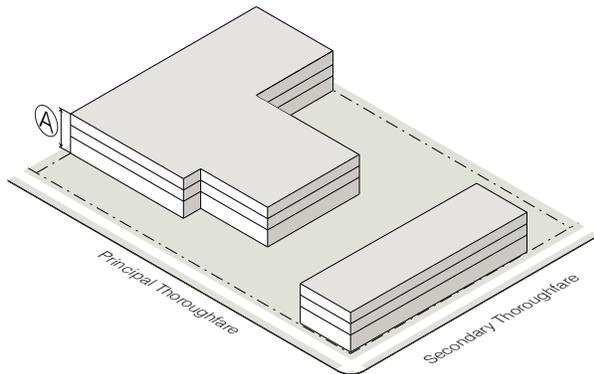
### 4.3.4 Siting



#### Building Setbacks

Ⓐ	Front yard (min)	0'
Ⓑ	Corner side yard (min)	0'
Ⓒ	Interior side yard (min)	0'
Ⓓ	Rear yard (min)	0'

### 4.3.5 Height



#### Building Height

Ⓐ	Building height (max)	6 stories <sup>1</sup>
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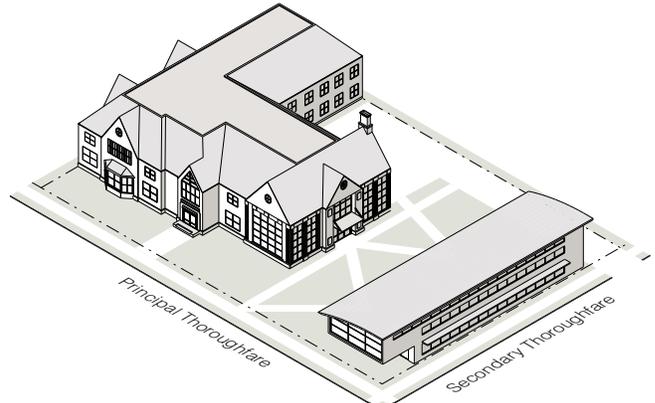
#### Supplemental Standards

1. Up to 12 stories may be allowed only with approval of City Planning Board as part of major site plan review.

#### Story Height

Finished ground floor level (min/max)	N/A
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### 4.3.6 Activation



#### Transparency

Ground floor transparency, front facade (min)	N/A
Ground floor transparency, corner side facade (min)	N/A
Upper floor transparency, front and corner side facades (min)	N/A

#### Pedestrian Access

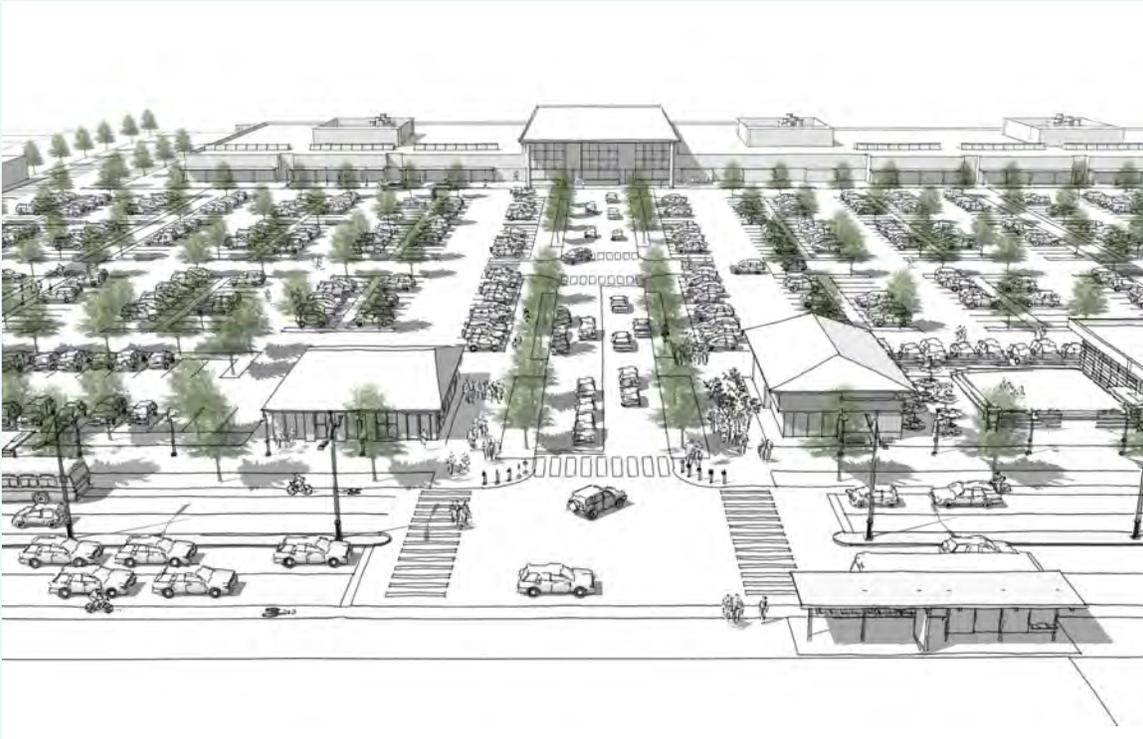
Main entrance location	N/A
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#### 4.3.7 Specific Standards

- A.** Any campus of two acres or more in area must be organized around one or more focal points, such as squares or greens, that provide orientation and identity. Such focal points must compose a minimum of 10% of the land area of the campus and be placed so that pedestrians on campus are not more than 1,320 feet distant from one. These spaces must be framed by buildings, helping to generate centers of campus life.
- B.** All principal buildings, with the exception of those located more than 200 feet from a public thoroughfare, must be oriented to the thoroughfares onto which they face, with front and corner facades positioned parallel or radial to adjacent right-of-way lines.
- C.** The following exterior facade materials are restricted on principal buildings:

  - 1.** Exterior insulating finishing systems (EIFS) are prohibited on the ground story of front and corner side facades, and are limited to 20% on upper stories of front and corner side facades.
  - 2.** Standard, fluted, or split face concrete masonry units (CMUs) are prohibited above the basement level on front and corner side facades. Glazed or heavily polished CMUs are allowed.
  - 3.** Vinyl siding is prohibited.
  - 4.** Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15% is prohibited.

## 4.4 D-S STRIP RETAIL



### 4.4.1 Purpose

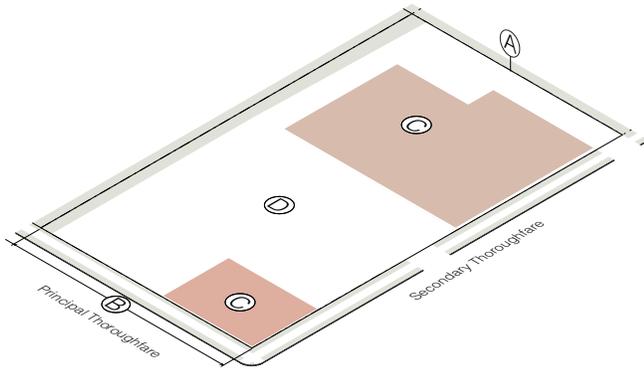
The D-S zone addresses strip retail development, which may be mixed-use, may contain prominent parking areas, may be centered around one or more “big box” format buildings, and is typically located adjacent to broad arterials or highway access points.

### 4.4.2 General

All development in the D-S zone must comply with the form standards of this section, as well as any applicable standards in other sections, including the following:

Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 4.4.3 Lot



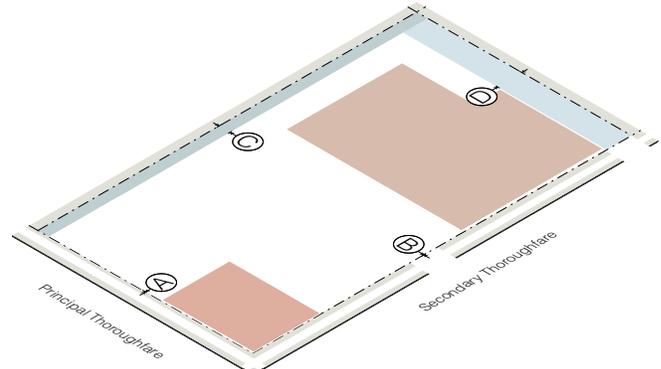
#### Lot Dimensions

(A)	Lot area (min)	5,000 SF
(B)	Lot width (min)	50'

#### Lot Coverage

(C)	Building coverage (max)	90%
(D)	Impervious coverage (max)	90%

### 4.4.4 Siting



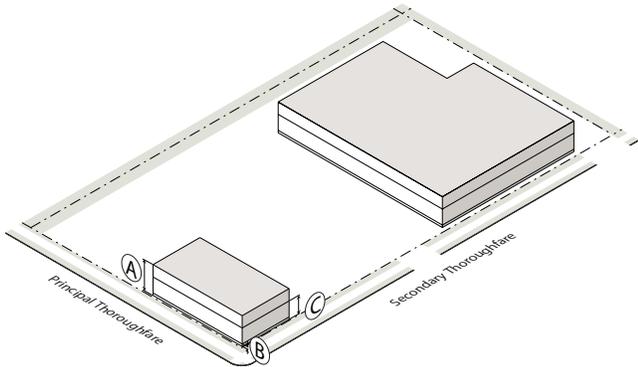
#### Building Setbacks

(A)	Front yard (min/max)	0/100' <sup>1/2</sup>
(B)	Corner side yard (min/max)	0/50' <sup>1/2</sup>
(C)	Interior side yard (min)	5'
(D)	Rear yard (min)	15'

#### Supplemental Standards:

1. Where adjacent to and on the same block face, or across a public right-of-way and within 150', of a Neighborhood Zone, front and corner side yards must each be no more than 10'.
2. Additional front or corner yard depth is permitted where an outbuilding, of at least 30 feet in width as measured along the front lot line, is proposed not more than 25' from the front lot line and a corner side lot line (where applicable). An outbuilding must also comply with Supplemental Standard No. 1, where applicable.

### 4.4.5 Height



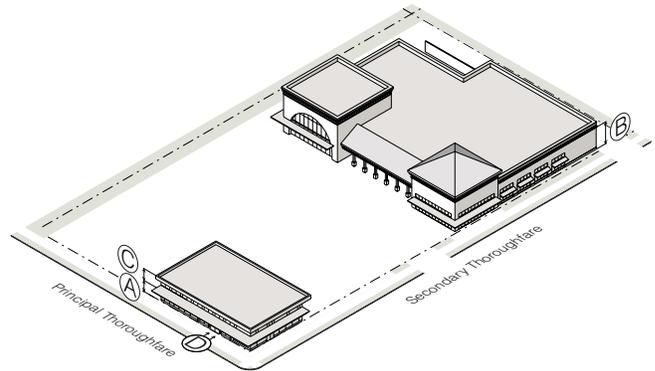
#### Building Height

(A)	Building height (max)	4 stories
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#### Story Height

(B)	Finished ground floor level (min/max)	0'/2'
(C)	Ground story height (min)	15'

### 4.4.6 Activation



#### Transparency

(A)	Ground floor transparency, front facade (min)	30% <sup>1/2</sup>
(B)	Ground floor transparency, corner side facade (min)	25% <sup>1/2</sup>
(C)	Upper floor transparency, front and corner side facades (min)	20%

#### Supplemental Standards

1. Where adjacent to and on the same block face, or across a public right-of-way and within 150', of a Neighborhood Zone, the ground floor transparency must be at least 70% for a front facade and 40% for a corner side facade.
2. Where an outbuilding is located not more than 25 feet from the front lot line, the ground floor transparency must be at least 50% for a front facade and 30% for a corner side facade.

#### Pedestrian Access

(D)	Main entrance location (preferred)	Front facade <sup>1/2</sup>
-----	------------------------------------	-----------------------------

#### Supplemental Standards

1. Where adjacent to and on the same block face, or across a public right-of-way and within 150', of a Neighborhood Zone, the main entrance must be located on the front facade.
2. The main entrance must not be located on the rear facade.

#### 4.4.7 Specific Standards

- A.** For lots of one acre or more in area, a minimum of 10% of total contiguous area under single ownership or control must be devoted to accessible open space, such as squares, greens, or greenways, located at high-use portions of the site. This open space should be framed by building facades where possible and should comply with the standards of the D-OS and/or D-OG zone. In lieu of site-by-site compliance, property owners of contiguous lots within the same zone may provide this accessible open space on an aggregate basis, so long as the total area of the space is equal to or greater than the combined minimum required area of accessible open space for each individual lot and the space is within 1,320 feet of sites served.
- B.** The following exterior facade materials are restricted on principal buildings:
- 1.** Exterior insulating finishing systems (EIFS) are prohibited on the ground story of front facades, only where the proposed project is adjacent to and on the same block face, or across a public right-of-way and within 150', of a Neighborhood Zone.
  - 2.** Standard, fluted, or split face concrete masonry units (CMUs) are prohibited above the basement level on front and corner side facades, only where the proposed project is adjacent to and on the same block face, or across a public right-of-way and within 150', of a Neighborhood Zone. Glazed or heavily polished CMUs are allowed.
  - 3.** Vinyl siding is prohibited.
  - 4.** Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15% is prohibited.

## 4.5 D-C FLEX COMMERCIAL



### 4.5.1 Purpose

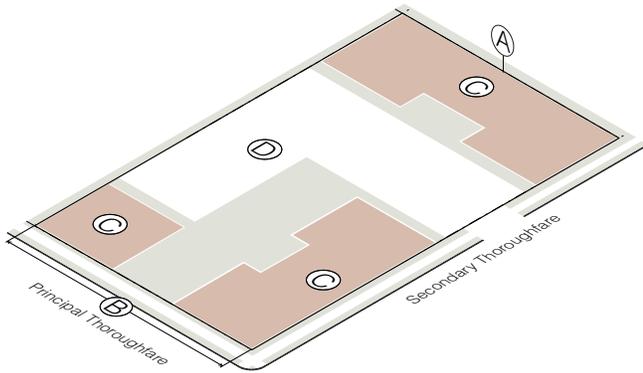
The D-C zone addresses general commercial and mixed-use areas, which typically benefit from flexible form standards and are separate from, but within close proximity to, residential neighborhoods.

### 4.5.2 General

All development in the D-C zone must comply with the form standards of this section, as well as any applicable standards in other sections, including the following:

Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 4.5.3 Lot



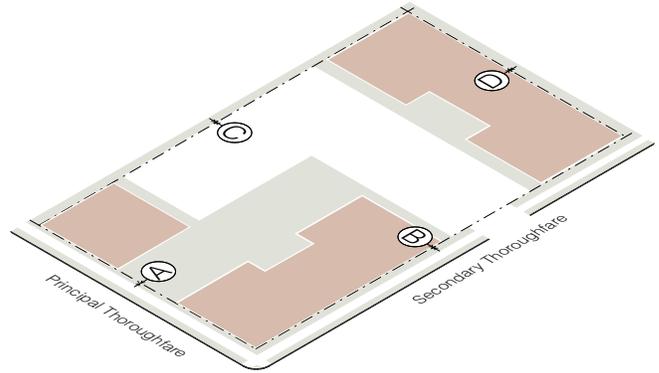
#### Lot Dimensions

(A)	Lot area (min)	5,000 SF
(B)	Lot width (min)	50'

#### Lot Coverage

(C)	Building coverage (max)	90%
(D)	Impervious coverage (max)	90%

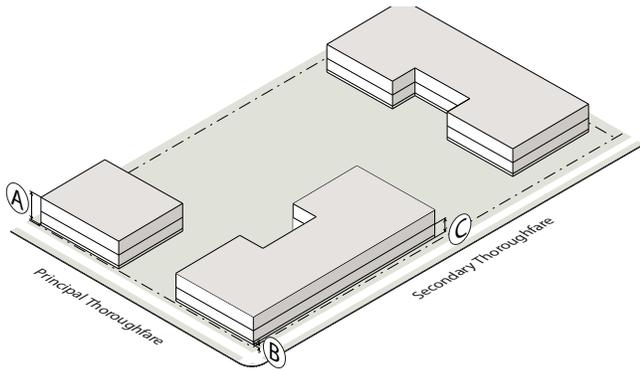
### 4.5.4 Siting



#### Building Setbacks

(A)	Front yard (min)	0'
(B)	Corner side yard (min)	0'
(C)	Interior side yard (min)	0'
(D)	Rear yard (min)	0'

### 4.5.5 Height



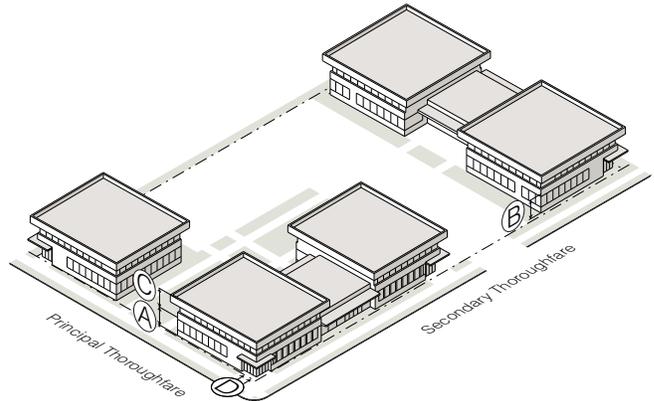
#### Building Height

(A)	Building height (max)	4 stories
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#### Story Height

(B)	Finished ground floor level (min/max)	0'/4'
(C)	Ground story height (min)	13'

### 4.5.6 Activation



#### Transparency

(A)	Ground floor transparency, front facade (min)	30%
(B)	Ground floor transparency, corner side facade (min)	25%
(C)	Upper floor transparency, front and corner side facades (min)	20%

#### Pedestrian Access

(D)	Main entrance location (preferred)	Front facade
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#### 4.5.7 Specific Standards

- A.** Any building on the site that houses professional or administrative offices, retail and services, or other uses open to the general public during normal business hours should be positioned so as to relate strongly to the adjacent public right-of-way; i.e., by directly abutting the public right-of-way, or by being sited within a lawn no more than 25 feet set back from the public right-of-way.
  
- B.** The following exterior facade materials are prohibited on principal buildings:
  - 1.** Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15%.

## 4.6 D-IL LIGHT INDUSTRIAL



### 4.6.1 Purpose

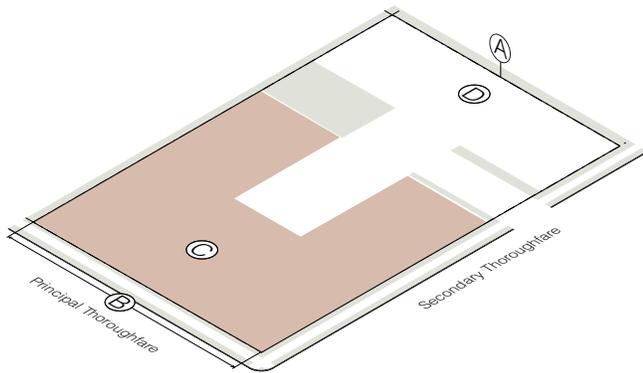
The D-IL zone addresses sites intended for low-impact and moderate-impact employment uses, which may benefit from close proximity to, but clear separation from, mixed-use residential neighborhoods, and are typically located adjacent to highway, rail, and water access points.

### 4.6.2 General

All development in the D-IL zone must comply with the form standards of this section, as well as any applicable standards in other sections, including the following:

Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 4.6.3 Lot



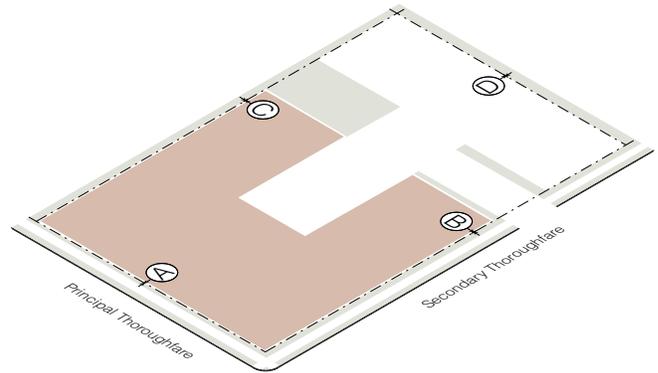
#### Lot Dimensions

Ⓐ	Lot area (min)	5,000 SF
Ⓑ	Lot width (min)	50'

#### Lot Coverage

Ⓒ	Building coverage (max)	100%
Ⓓ	Impervious coverage (max)	100%

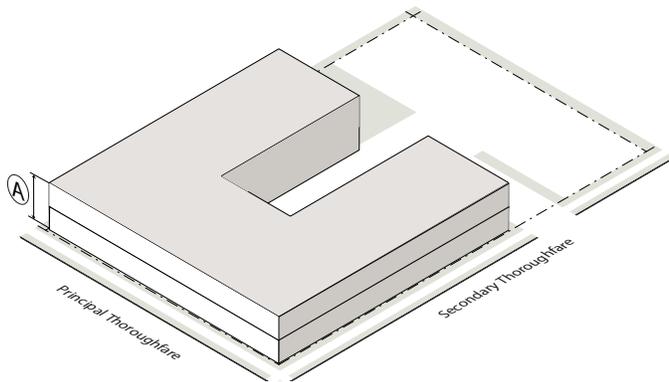
### 4.6.4 Siting



#### Building Setbacks

Ⓐ	Front yard (min)	0'
Ⓑ	Corner side yard (min)	0'
Ⓒ	Interior side yard (min)	0'
Ⓓ	Rear yard (min)	0'

### 4.6.5 Height



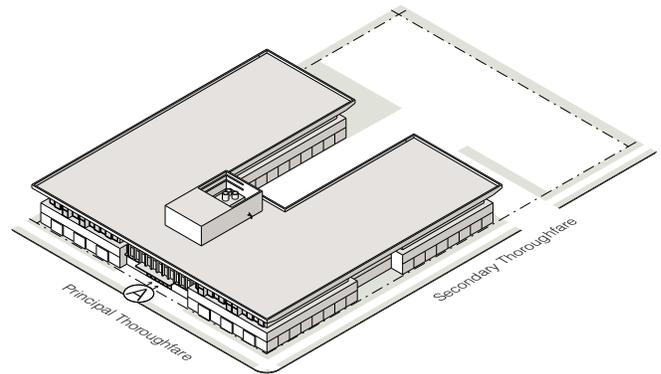
#### Building Height

Ⓐ	Building height (max)	4 stories
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#### Story Height

Finished ground floor level (min/max)	N/A
Ground story height (min)	N/A

### 4.6.6 Activation



#### Transparency

Ground floor transparency, front facade (min)	N/A
Ground floor transparency, corner side facade (min)	N/A
Upper floor transparency, front and corner side facades (min)	N/A

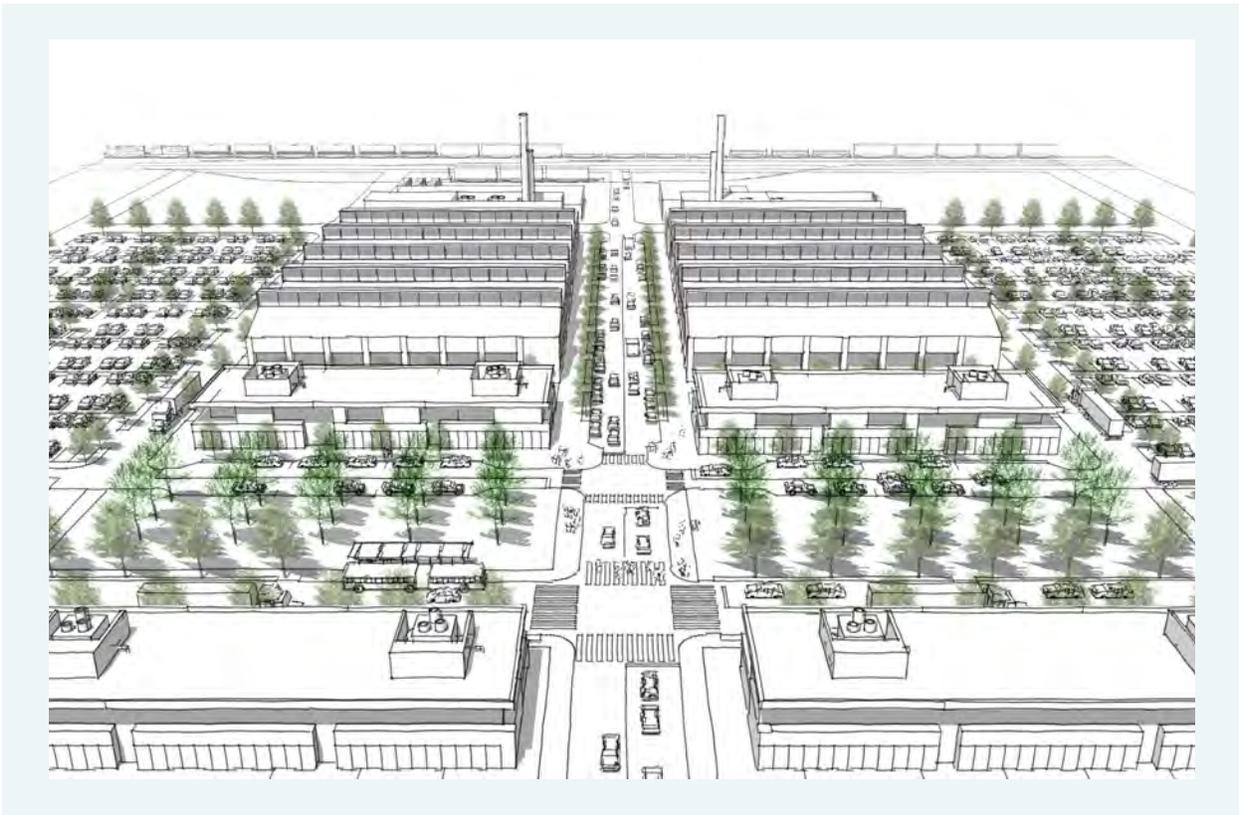
#### Pedestrian Access

Ⓐ	Main entrance location (preferred)	Front or corner side facades
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#### 4.6.7 Specific Standards

- A.** Any building on the site that houses professional or administrative offices, retail and services, or other uses open to the general public during normal business hours should be positioned so as to relate strongly to the adjacent public right-of-way; i.e., by directly abutting the public right-of-way, or by being sited within a lawn no more than 25 feet set back from the public right-of-way.
  
- B.** The following exterior facade materials are prohibited on principal buildings:
  - 1.** Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15%.

## 4.7 D-IH HEAVY INDUSTRIAL



### 4.7.1 Purpose

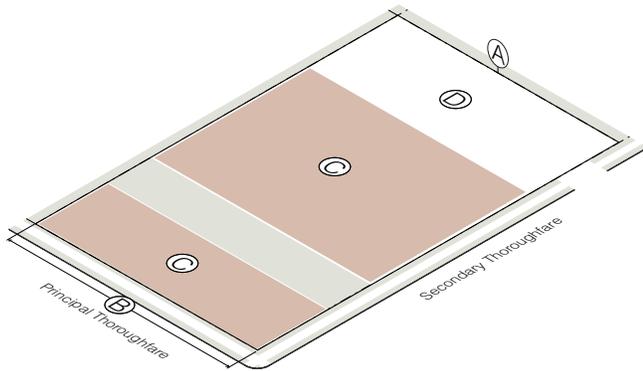
The D-IH zone addresses intensive, high-impact employment uses, which are generally incompatible with mixed-use residential neighborhoods and typically benefit from isolated locations, often adjacent to highway, rail, and water access points.

### 4.7.2 General

All development in the D-IH zone must comply with the form standards of this section, as well as any applicable standards in other sections, including the following:

Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 4.7.3 Lot



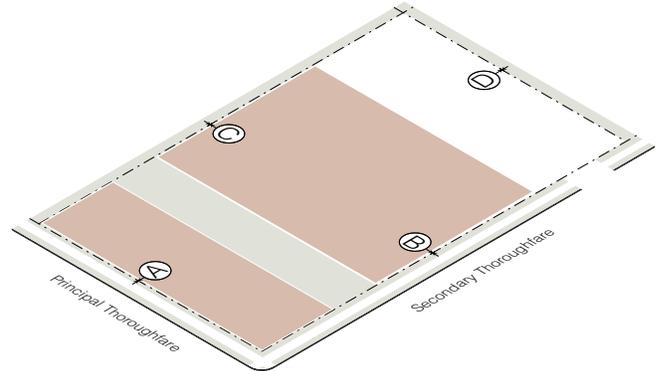
#### Lot Dimensions

Ⓐ	Lot area (min)	5,000 SF
Ⓑ	Lot width (min)	50'

#### Lot Coverage

Ⓒ	Building coverage (max)	100%
Ⓓ	Impervious coverage (max)	100%

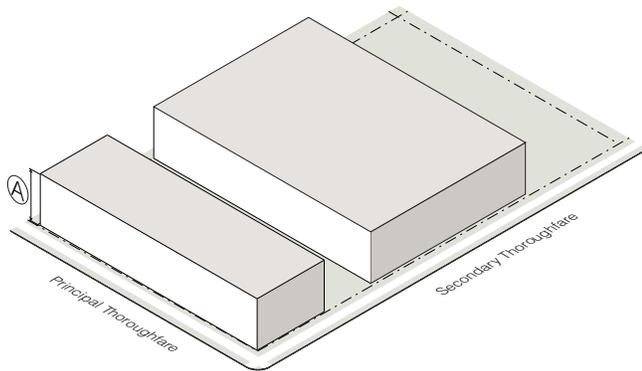
### 4.7.4 Siting



#### Building Setbacks

Ⓐ	Front yard (min)	0'
Ⓑ	Corner side yard (min)	0'
Ⓒ	Interior side yard (min)	0'
Ⓓ	Rear yard (min)	0'

### 4.7.5 Height



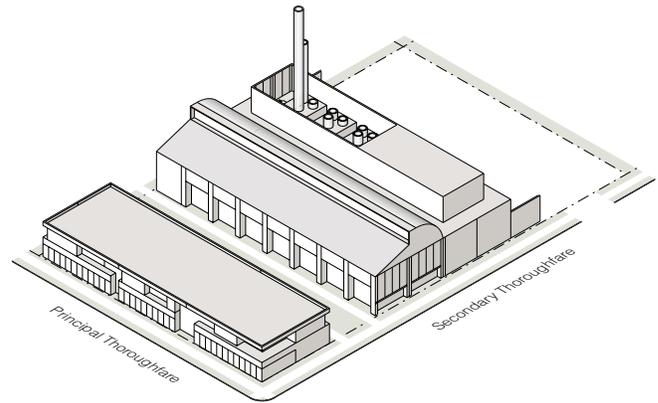
#### Building Height

Ⓐ Building height (max)	4 stories
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#### Story Height

Finished ground floor level (min/max)	N/A
Ground story height (min)	N/A

### 4.7.6 Activation



#### Transparency

Ground floor transparency, front facade (min)	N/A
Ground floor transparency, corner side facade (min)	N/A
Upper floor transparency, front and corner side facades (min)	N/A

#### Pedestrian Access

Main entrance location	N/A
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#### 4.7.7 Specific Standards

- A.** Any building on the site that houses professional or administrative offices, retail and services, or other uses open to the general public during normal business hours should be positioned so as to relate strongly to the adjacent public right-of-way; i.e., by directly abutting the public right-of-way, or by being sited within a lawn no more than 25 feet set back from the public right-of-way.
- B.** The following exterior facade materials are prohibited on principal buildings:
  - 1.** Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15%.

## 4.8 D-OS SQUARE



### 4.8.1 Purpose

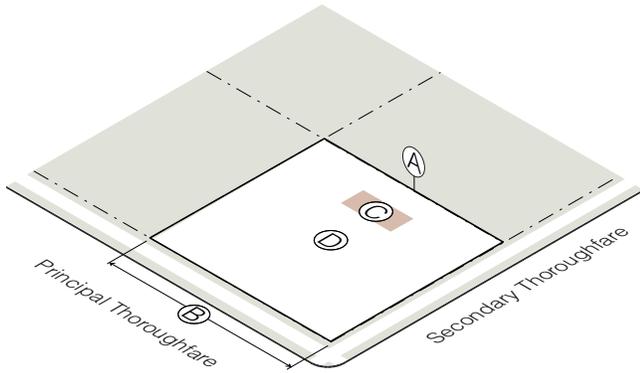
The D-OS zone addresses formal squares, often located at the intersection of important thoroughfares, enclosed by building facades along most of their perimeter, and designed for intensive public use.

### 4.8.2 General

All development in the D-OS zone must comply with the form standards of this section, as well as any applicable standards in other sections, including the following:

Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 4.8.3 Lot



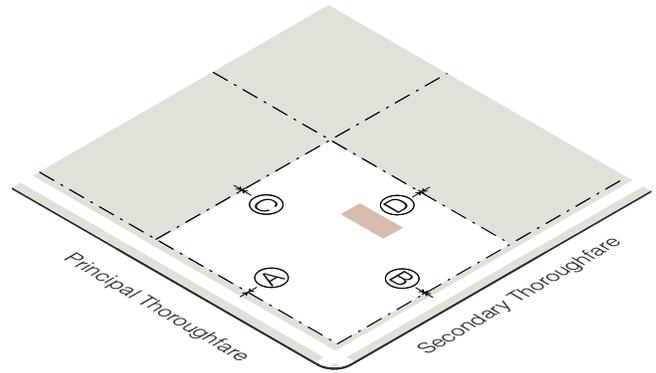
#### Lot Dimensions

(A)	Lot area (min/max)	5,000 SF / 85,000 SF
(B)	Lot width (min)	50'

#### Lot Coverage

(C)	Building coverage (max)	25%
(D)	Impervious coverage (max)	100%

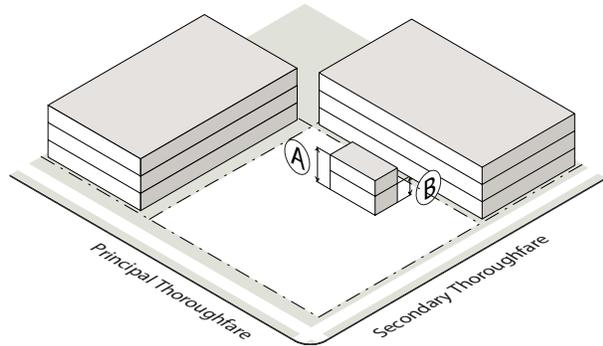
### 4.8.4 Siting



#### Building Setbacks

(A)	Front yard (min)	0'
(B)	Corner side yard (min)	0'
(C)	Interior side yard (min)	0'
(D)	Rear yard (min)	0'

### 4.8.5 Height



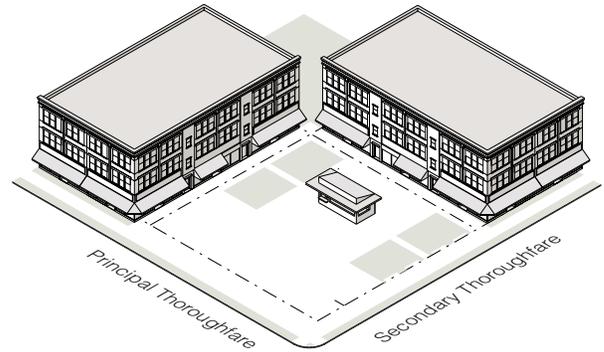
#### Building Height

A	Building height (max)	2 stories
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#### Story Height

B	Ground story height (min)	13'
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### 4.8.6 Activation



#### Transparency

Ground floor transparency, front facade (min)	N/A
Ground floor transparency, corner side facade (min)	N/A
Upper floor transparency, front and corner side facades (min)	N/A

#### Pedestrian Access

Main entrance location	N/A
------------------------	-----

#### 4.8.7 Specific Standards

- A.** The square must be organized around one or more central markers, such as a fountain or sculpture, to establish orientation and identity.
- B.** The square should be sized proportional to its anticipated public use; i.e. on a temperate, sunny day, it would be inhabited by no less than one person per 300 square feet of publicly accessible surface area.
- C.** Circulation within the square must follow the probable desire lines of its users, connecting pedestrians to rights-of-way on which the square abuts, entrances to buildings adjacent to the square, and major design features of the square, such as seating areas or open air cafes.
- D.** No surface area of the square that is intended for public use may be more than two feet above or below the adjacent sidewalk level.
- E.** Squares must be surfaced with durable, high-quality impervious or semi-pervious materials, such as concrete, brick, or stone pavers, for a minimum of 25% of the surface area.
- F.** To ensure comfort for the public, no surface area intended for public circulation may be sloped, unless required for stormwater management or to comply with Americans with Disabilities Act (ADA) standards.
- G.** One linear foot of seating must be provided for each linear foot of square perimeter. Six types of seating may be used to satisfy the seating requirements: moveable seating, fixed individual seats, fixed benches, seat walls, planter ledges, and seating steps. Deterrents to seating, such as spikes, rails, or deliberately uncomfortable materials or shapes, placed on surfaces that would be suitable for seating are prohibited.
- H.** Trees, if provided, must be formally arranged to frame spaces within the square.
- I.** Site design should incorporate sustainable landscape practices, in accordance with the Sustainable Sites Initiative Rating System and Reference Guide.
- J.** A square must not contain driveways, parking spaces, passenger drop-offs, garage entrances, loading berths, exhaust vents, mechanical equipment, or refuse or recycling storage.
- K.** The following exterior facade materials are prohibited on principal buildings:
  - 1.** Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15%.

## 4.9 D-OG GREEN



### 4.9.1 Purpose

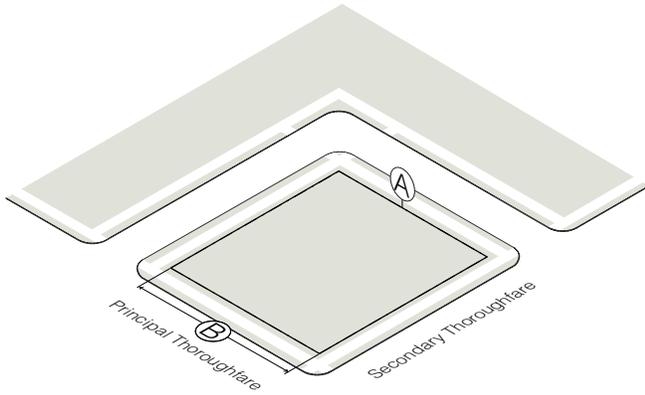
The D-OG zone addresses civic greens and parks, characterized primarily by trees and landscape, framed by landscape elements or building facades, and designed for passive or recreational use.

### 4.9.2 General

All development in the D-OG zone must comply with the form standards of this section, as well as any applicable standards in other sections, including the following:

Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 4.9.3 Lot



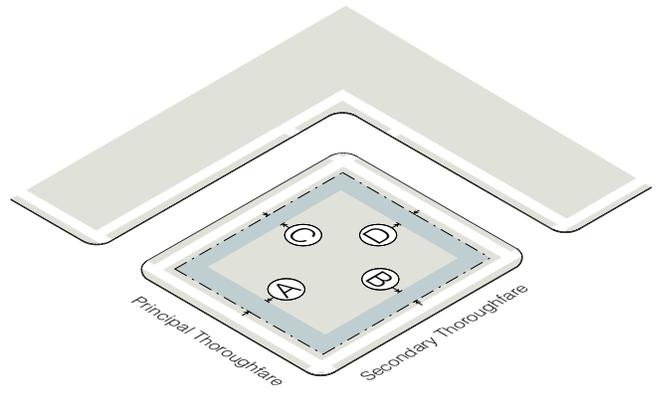
#### Lot Dimensions

Ⓐ	Lot area (min)	5,000 SF
Ⓑ	Lot width (min)	50'

#### Lot Coverage

	Building coverage (max)	10%
	Impervious coverage (max)	15%

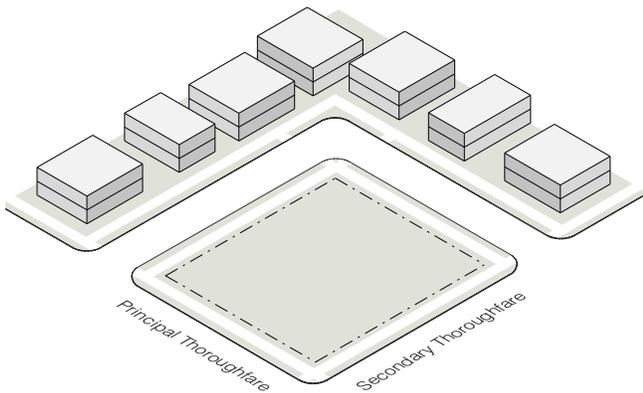
### 4.9.4 Siting



#### Building Setbacks

Ⓐ	Front yard (min)	15'
Ⓑ	Corner side yard (min)	15'
Ⓒ	Interior side yard (min)	15'
Ⓓ	Rear yard (min)	15'

### 4.9.5 Height



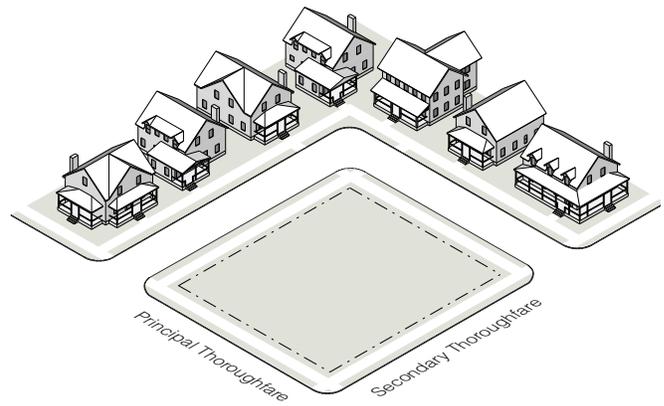
#### Building Height

Building height (max)	3 stories
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#### Story Height

Ground story height (min)	N/A
Finished ground floor level (min/max)	0'/2'

### 4.9.6 Activation



#### Transparency

Ground floor transparency, front facade (min)	N/A
Ground floor transparency, corner side facade (min)	N/A
Upper floor transparency, front and corner side facades (min)	N/A

#### Pedestrian Access

Main entrance location	N/A
------------------------	-----

#### 4.9.7 Specific Standards

- A.** Paths within the green must provide convenient routes to abutting thoroughfares and to destinations within the green, but may meander to take advantage of view corridors or topographical or landscape features.
- B.** Site design should incorporate sustainable landscape practices, in accordance with the Sustainable Sites Initiative Rating System and Reference Guide.
- C.** The following exterior facade materials are prohibited on principal buildings:
  - 1.** Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15%.

## 4.10 D-ON NATURAL



### 4.10.1 Purpose

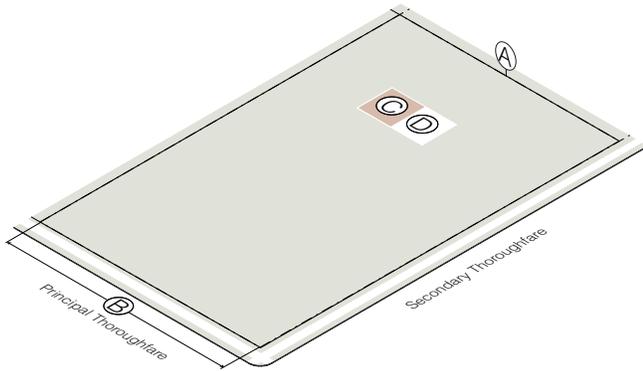
The D-ON zone addresses open spaces that are maintained in a predominantly undeveloped state, and typically set aside for land conservation, passive recreation, and ecological restoration.

### 4.10.2 General

All development in the D-ON zone must comply with the form standards of this section, as well as any applicable standards in other sections, including the following:

Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 4.10.3 Lot



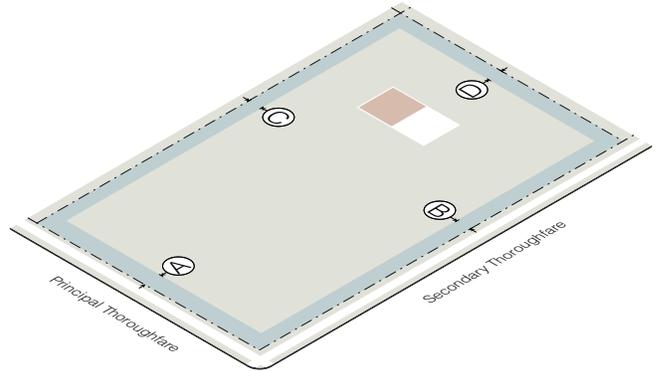
#### Lot Dimensions

Ⓐ	Lot area (min)	5,000 SF
Ⓑ	Lot width (min)	50'

#### Lot Coverage

Ⓒ	Building coverage (max)	2%
Ⓓ	Impervious coverage (max)	5%

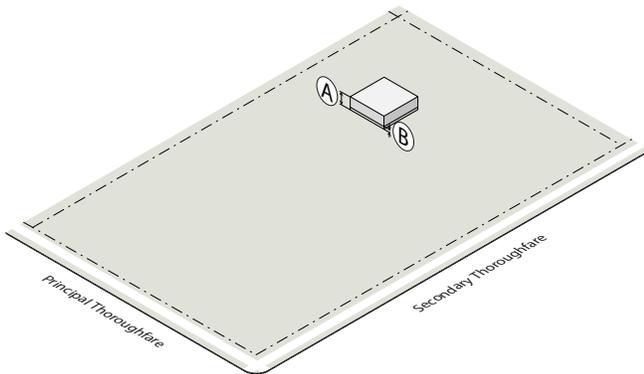
### 4.10.4 Siting



#### Building Setbacks

Ⓐ	Front yard (min)	15'
Ⓑ	Corner side yard (min)	15'
Ⓒ	Interior side yard (min)	15'
Ⓓ	Rear yard (min)	15'

### 4.10.5 Height



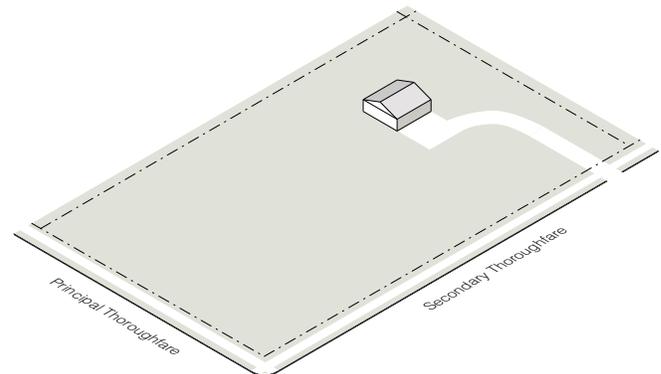
#### Building Height

Ⓐ	Building height (max)	1 story
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#### Story Height

Ⓑ	Finished ground floor level (min/max)	0'/2'
	Ground story height (min)	N/A

### 4.10.6 Activation



#### Transparency

Ground floor transparency, front facade (min)	N/A
Ground floor transparency, corner side facade (min)	N/A
Upper floor transparency, front and corner facades (min)	N/A

#### Pedestrian Access

Main entrance location	N/A
------------------------	-----

#### 4.10.7 Specific Standards

- A.** Trails and related public amenities, such as boardwalks, pavilions, and observation towers, are encouraged provided they do not negatively impact sensitive habitats.
- B.** Substantial alteration to existing topography and landscape is permitted only as necessary to restore ecosystem services or a natural, pre-development condition.
- C.** Native vegetation, such as grasses, shrubs, and trees, may be disturbed only as necessary to control noxious or invasive vegetation or to remove dead, dying, or diseased vegetation. Where removal of native vegetation is unavoidable to facilitate civic uses or public access, native or naturalized vegetation must be replaced in kind elsewhere on the site.
- D.** Materials used for elements, features, and objects within the site should use muted, natural colors. Bright, reflective colors, including white, are discouraged.
- E.** Site design should incorporate sustainable landscape design practices, in accordance with the Sustainable Sites Initiative Rating System and Reference Guide.
- F.** The following exterior facade materials are prohibited on principal buildings:
  - 1.** Reflective wall surface material with a Visible Light Reflectance (VLR) of greater than 15%.

# Article 5. Corridor Zones

5.1 C-M Metro Rail .....5-3

5.2 C-R Rail.....5-5

5.3 C-W Waterfront.....5-7

Corridor zones are linear systems that form the borders of, or connect, the neighborhoods and districts. They are composed of natural and man-made components, ranging from waterfront to railways and transit lines.

This article addresses form and dimensional standards particular to each corridor zone.

## 5.1 C-M METRO RAIL



### 5.1.1 Purpose

The C-M zone addresses designated areas within close walking distance of Metro Rail stations, and is intended to facilitate an elevated level of urban intensity and transit orientation.

### 5.1.2 General

The C-M zone is an overlay zone, so both the standards of the C-M zone and underlying zone apply. All development in the C-M zone must comply with the standards of this section, as well as any applicable standards in the underlying zone and other sections.

### 5.1.3 Specific Standards

- A.** The minimum building height in the C-M zone is three stories where the underlying zone is N-1C, N-1S, N-2C, N-2E, or N-2R; and two stories where the underlying zone is N-3C, N-3E, or N-3R.
- B.** A development that involves new construction with a residential component in the C-M zone must meet a minimum density of 36 dwelling units per acre where the underlying zone is N-1C, 24 dwelling units per acre where the underlying zone is N-2C or N-2E, and 18 dwelling units per acre where the underlying zone is N-3C or N-3E.
- C.** Any accessory surface parking lot must be located wholly within a rear yard, consistent with Section 8.3.3.A.2.

## 5.2 C-R RAIL



### 5.2.1 Purpose

The C-R zone addresses rail lines and yards, including vacated rights-of-way, intended to be reserved as permanent transportation corridors.

### 5.2.2 General

All development in the C-R zone must comply with the standards of this section, as well as any applicable standards in other sections, including the following:

Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

### 5.2.3 Specific Standards

- A. All structures are limited to a maximum height of 50 feet, unless such limitation would prevent or unreasonably interfere with the transportation purposes of the railroad.
- B. When no longer in use by the railroad operator, bridges, trestles, culverts, tunnels, or other structures that may have considerable value for, and may potentially facilitate, the development of recreational trails, such structures should be preserved and maintained for this purpose.

## 5.3 C-W WATERFRONT



### 5.3.1 Purpose

The C-W zone addresses all land areas within the Local Waterfront Revitalization Area (LWRA), which is defined in the Local Waterfront Revitalization Plan (LWRP) and delineated on the Zoning Map.

### 5.3.2 General

The C-W zone is an overlay zone, so both the standards of the C-W zone and underlying zone apply. All development in the C-W zone must comply with the standards of this section, as well as any applicable standards in the underlying zone and other sections.

### 5.3.3 Specific Standards

**A. Waterfront Yards.** All development on waterfront lots within the C-W zone must provide a waterfront yard (either C-W-25 or C-W-100, depending upon the zone) along the shoreline of the property per Table 5A: Waterfront Yards. The standards for the C-W-25 and C-W-100 waterfront yard types are described below.

TABLE 5A: WATERFRONT YARDS

ZONE	WATERFRONT YARD TYPE
N-1D, N-1C, N-1S, N-2C, N-2E, N-2R, N-3C, N-3E, N-3R, N-4-30, N-4-50	C-W-25
D-R, D-M, D-E, D-S, D-C, D-IL, D-IH, D-OS, D-OG, D-ON, C-R	C-W-100

1. A required waterfront yard is the area of a waterfront lot measured from the mean high water line of the adjacent water body that must be maintained clear of all permanent structures and vehicular access and parking, except where necessary to facilitate water-dependent uses. The required waterfront yard substitutes for a required rear or interior side yard, wherever such yards coincide.
2. A water-dependent use is a use which can only be conducted in, on, over, or adjacent to a water body because such use requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water. Water-dependent uses include, but are not limited to, marinas and yacht clubs, boat launch and service facilities, waterborne passenger terminals, fishing facilities, tour boat and charter boat facilities, research and educational facilities requiring access to water bodies, structures needed for navigational purposes, erosion and flood control structures, and facilities for loading and unloading bulk cargo by water. A shore public walkway, plus related accessory structures, is considered a water-dependent use.
3. Where a water-dependent use is proposed to

be established or expanded within a required waterfront yard, the encroachment upon the required waterfront yard must, to the greatest extent practicable, avoid, minimize, and/or mitigate adverse impacts, including, but not limited to:

- a. Deterioration of water quality.
  - b. Loss, fragmentation, and impairment of habitats and wetlands.
  - c. Changes to the natural processes that would increase shoreline flooding and erosion.
  - d. Impacts on physical and visual access to the water.
  - e. Impacts upon historic, archaeological, cultural, or scenic resources.
  - f. Interference with existing water-dependent uses.
4. **C-W-25 Standards.** The C-W-25 waterfront yard type is intended for intensely urbanized waterfronts, typically characterized by an existing bulkhead, breakwall, embankment, or wharf along the shore, enabling public engagement with the water's edge. The following standards apply to this type:
    - a. A waterfront yard of a minimum depth of 25 feet is required along the shoreline.
  5. **C-W-100 Standards.** The C-W-100 waterfront yard type is intended for less urbanized waterfronts, where a shoreline buffer of native vegetation protects and restores wildlife habitat and ecosystem services. The following standards apply to this type:
    - a. A waterfront yard of a minimum depth of 100 feet is required along the shoreline. As part of major site plan review, per Section 11.3.7, the City Planning Board may adjust the depth of the required waterfront yard to include contiguous sensitive areas, such as steep slopes, erodible soils, wetlands, or floodplains,

where it finds that development in these areas will adversely affect the water quality of the water body.

- b.** A shoreline buffer, consisting of undisturbed native or naturalized vegetation, must be provided for a minimum depth of 50 feet from the mean high water line. Grading, filling, excavation, clear cutting, and removal of vegetative cover are prohibited within this shoreline buffer, except in the following instances:
  - i.** To implement erosion and flood control measures.
  - ii.** To facilitate a water-dependent use.
  - iii.** To control noxious or invasive vegetation.
  - iv.** To implement green infrastructure best management practices (BMPs).
  - v.** To undertake activities related to environmental remediation.
  - vi.** To undertake activities related to the protection or restoration of shoreline buffers, wetlands, or sensitive habitats.

## **B. Shore Public Walkways**

- 1.** The provision of a shore public walkway, which is a linear public access area running alongside the shore and accessible to the public, is encouraged wherever new development occurs.
- 2.** A shore public walkway should be designed as a multi-use path, connected to adjacent shore public walkways and public rights-of-way, where possible, in accordance with the Manual on Uniform Traffic Control Devices (MUTCD), plus New York State Supplement, and the AASHTO Guide for the Development of Bicycle Facilities.
- 3.** Public access easements may be dedicated to ensure public access to and along a shore public walkway.

## **C. Outer Harbor Review Area**

- 1.** The Outer Harbor boundaries are defined, as follows:
  - a.** Beginning at the southern shoreline of the mouth of the Buffalo River where it meets Lake Erie and proceeding southerly along the City Ship Canal until reaching the southern extent of the City Ship Canal, then proceeding southerly to the southeastern corner of the former NFTA Terminal buildings property, then proceeding westerly until reaching the western extent of the former NFTA Terminal buildings property, then proceeding northerly along the Lake Erie shoreline until intersecting with the southern shoreline of mouth of the Buffalo River.
- 2.** Attached house and detached house building types are prohibited within the Outer Harbor.
- 3.** Except for Open Space, any proposed use (as permitted per Table 6A) within the Outer Harbor may be permitted only with a special use permit, subject to the following additional criteria:
  - a.** The proposed use will incorporate opportunities for visual and physical access to the waterfront for site users and the public.
  - b.** The proposed use will conserve environmentally sensitive and naturalized areas.
  - c.** The proposed use will not cause a decrease in vitality or an increase in vacancy in established employment centers within the City of Buffalo.
  - d.** The proposed use will provide for an efficient use of land that responds to the existing infrastructure, utilities, and service conditions in order to minimize, to the extent practicable, the demand for additional municipal services, utilities, and infrastructure.

**D. Supplemental Form Standards.** The following standards apply to waterside facades and building frontages along the waterfront yard, with the exception of single-unit or double-unit dwellings, which are exempt from these standards.

1. A waterside facade must comply with front facade transparency, pedestrian access, vertical and horizontal articulation, and materials requirements of the underlying zone, if any.
2. Where practicable, a waterside facade must be oriented to the shoreline and positioned parallel or radial to the mean high water line.

**E. Supplemental Use Standards**

1. The following uses are subject to additional standards if located within the C-W zone:
  - a. Car wash. Refer to Section 6.1.5.F.
  - b. Gas station. Refer to Section 6.1.5.M.
  - c. Off-premise signs. Refer to Section 9.3.1.B.
2. The following uses are prohibited within the C-W zone:
  - a. Adult establishment. Refer to Section 6.1.5.A.
  - b. Junk/salvage yard. Refer to Section 6.1.6.D.
  - c. Recycling facility. Refer to Section 6.1.6.F.
  - d. Waste transfer Station. Refer to Section 6.1.6.J.
  - e. Truck stop. Refer to Section 6.1.8.O.
  - f. Electronic Message Centers (9.1.5.B)

**F. Encroachments.** No structure may be erected, or any other encroachment established, within 40 feet of the mean high water line of any navigable waters of the City of Buffalo without written

permission from the Commissioner of Public Works, Parks, and Streets, in accordance with § 495-16 of the City Code.

**G. Consistency Review.** All development within the C-W zone must also comply with the standards and procedures of the Local Waterfront Consistency Review Ordinance.

# Article 6. Uses

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## 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.

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## 7.1 LANDSCAPE

### 7.1.1 General

- A. Applicability.** All development that involves new construction of a principal structure, expansion of an existing principal building by 2,500 square feet or more, or new construction or reconstruction of a parking lot, or expansion of a parking lot by 20 or more spaces, must comply with the requirements of this section. Resealing or re-striping of a parking lot, which does not entail paving, resurfacing, or replacement of the asphalt, concrete, or other surface paving material, is not considered reconstruction.
- B. Landscape Plan.** All developments subject to site plan review per Section 11.3.6 or 11.3.7 must submit a landscape plan. Where developments involve either 10,000 square feet or more of development area or construction or reconstruction of a parking lot containing 20 or more spaces, the landscape plan must be stamped by a New York State licensed landscape architect. Single-unit dwellings, double-unit dwellings, and multi-unit dwellings of 6 units or less, are exempt from this requirement.
- C. Landscape Installation.** Prior to a certificate of occupancy being granted, all landscape required by this section must be installed. However, where required landscape cannot be installed because of seasonal weather conditions, a certificate of occupancy may be issued by the Commissioner of Permit and Inspection Services provided that the applicant produces a contract for the landscape work to be completed within nine months of the issuance of the certificate of occupancy.
- D. Selection**
  - 1.** Plant materials must be hardy to regional climate conditions per the U.S. Department of Agriculture's Plant Hardiness Zone Map, as well as to individual site microclimates.
  - 2.** No plant material may be installed that is listed by the New York Invasive Species Council as an invasive species, defined by

New York State statute to be any species that is non-native to the ecosystem under consideration, whose introduction causes or is likely to cause economic or environmental harm or harm to human health, and whose harm significantly outweighs any benefits.

### E. Installation

- 1.** Plant materials must be installed in accordance with the latest edition of the American Standard for Nursery Stock published by the American Nursery and Landscape Association (ANLA).
- 2.** Plant materials must be installed in soil of sufficient volume, composition, and nutrient balance to sustain healthy growth.

### F. Irrigation

- 1.** Irrigation, beyond establishment, is not required. Where installed, permanent irrigation systems must:
  - a.** Utilize low-volume irrigation emitters such as bubbler, drip irrigation, and soaker hose emitters.
  - b.** Be equipped with a meter, backflow preventer, and weather-based irrigation controller.
- 2.** Temporary spray irrigation systems may be used to establish seeded areas for grass and groundcover.

### G. Maintenance

- 1.** All plant materials must be maintained in a healthy, growing condition.
- 2.** Any plant material that is significantly damaged, missing, disease-ridden, or dead must be abated by the property owner within one year or the next planting season, whichever occurs first, except in the D-ON zone and other areas of naturally occurring vegetation and undergrowth.
- 3.** Any landscape that is considered hazardous

or unsafe, interferes with public utilities, is in conflict with required corner visibility, obstructs pedestrian or vehicular access, constitutes a traffic hazard, or is listed as an invasive species by the New York Invasive Species Council, must be abated by the property owner as soon as practicable or within 30 days of notice by the Commissioner of Permit and Inspection Services. The Commissioner of Permit and Inspection Services may remove any landscape that is an immediate peril to persons or property summarily, without notice, and at the property owner's expense.

### 7.1.2 Site Landscape

- A.** All non-paved and non-built land areas of the site must consist of living vegetation, such as grass, ornamental grass, groundcover, edible plants, shrubs, vines, annuals, perennials, or native or naturalized trees, with the exception of the following areas:
1. Agricultural fields or planting areas seasonally tilled for cultivation.
  2. Trails.
  3. Naturally occurring dunes, creek beds, rock outcroppings, or similar landscape features typically lacking in vegetation.
  4. Recreational fields and facilities.
  5. Rock or gravel, wood chips, bark, or other non-living material typically used as a landscape ornament.
  6. Water features.
- B.** Any development, with the exception of single-unit and double-unit dwellings, that involves new construction of a principal structure must include the installation of at least one shade tree of a caliper of at least two inches for every 1,000 square feet of non-paved and non-built area of the site. The following are exceptions to this requirement:
1. An existing shade tree may fulfill this requirement, so long as the tree is a minimum of four inches diameter at breast height (DBH), possesses a healthy and full canopy, has an unmolested critical root zone, and has incurred no damage that would undermine its long-term vitality and quality.
  2. In lieu of one required shade tree, three ornamental trees of a minimum caliper of one and one-half inch may be installed.

### 7.1.3 Tree Conservation

- A.** All proposed development must conserve on-site established trees, defined as any tree with a diameter at breast height of six inches or more.
1. **Removal.** An on-site established tree may be removed only if at least one of the following conditions are satisfied:
    - a. The tree interferes with the construction of a structure or other site improvement, no feasible and prudent location alternative exists on-site for the proposed structure or other site improvement, and no possibility exists for incorporation of the tree into the proposed development.
    - b. The tree is causing damage to an existing structure or site improvement and no feasible remedy exists other than removing the tree.
    - c. The tree is diseased or injured beyond restoration, as determined by a registered forester or certified arborist.
    - d. The tree is dead, is in danger of falling, is located so as to pose a threat to existing structures, interferes with existing utility infrastructure, is in conflict with required corner visibility, or is otherwise considered hazardous or unsafe.
  2. **Replacement.** In the event that an on-site established tree of a minimum of six inches DBH is removed under any circumstances, including the accidental killing of a tree during the course of construction activity, the following requirements apply:

- a. For each established tree that is removed, on-site replacement trees of the same or similar species must be installed for which the combined DBH is equal to or greater than the DBH of the tree that is removed. The replacement trees must be planted within nine months of the date of removal or, if the removal was made to facilitate on-site construction, within nine months of the issuance of a certificate of occupancy.
- b. If the site cannot accommodate the number of trees required as replacements, the replacement trees may be installed off-site so long as the site is within the corporate boundaries of the City of Buffalo.
- c. A replacement tree may be planted in a public park or public right-of-way with the authorization of the Commissioner of Public Works, Parks, and Streets.

#### 7.1.4 Street Trees

**A. Street Trees Required.** Any development that involves construction of a new principal building, expansion of an existing principal building by 2,500 square feet or more, or a substantial renovation of an existing principal building, except for single unit dwellings, double unit dwellings, and multiple unit dwellings of six units or less, must include the installation of street trees as follows:

- 1. A minimum of one street tree must be installed on the adjacent public rights-of-way, excluding alleys, for each 30 feet of right-of-way frontage.
- 2. All street trees must be installed in accordance with the Street Tree Planting Standards that are on file with the Commissioner of Public Works, Parks, and Streets.
- 3. All required street trees must be installed within nine months of the issuance of a certificate of occupancy, and maintained in a healthy, growing condition until fully

established, or replaced as necessary.

**B. Exceptions.** The Commissioner of Public Works, Parks, and Streets may grant a waiver to the street tree requirement where:

- 1. Street trees of the minimum required number are already installed and maintained in a healthy, growing condition.
- 2. There is already a well-established tree planted on-site and adjacent to the outer edge of the property, whose crown reaches over the public right-of-way area to be planted, and would cause overcrowding of the new street tree, and may result in deforming the symmetry of the street tree crowns as it approaches maturity.
- 3. The specific location of a curb cut, utility line, underground vault, transit stop or station, or other feature conflicts with the placement of a tree.

**C. Alternative Planting Locations.** The Commissioner of Public Works, Parks, and Streets may require tree installation in alternative locations within the City of Buffalo when installation cannot be accommodated in the immediately adjacent public right-of-way.

#### 7.1.5 Parking Lot Landscape

**A.** Any new construction of a parking lot, expansion of an existing parking lot by 20 or more spaces, or reconstruction of an existing parking lot must be landscaped in accordance with this section.

**B. Parking Lot Perimeter.** Parking lot perimeters must be landscaped as follows:

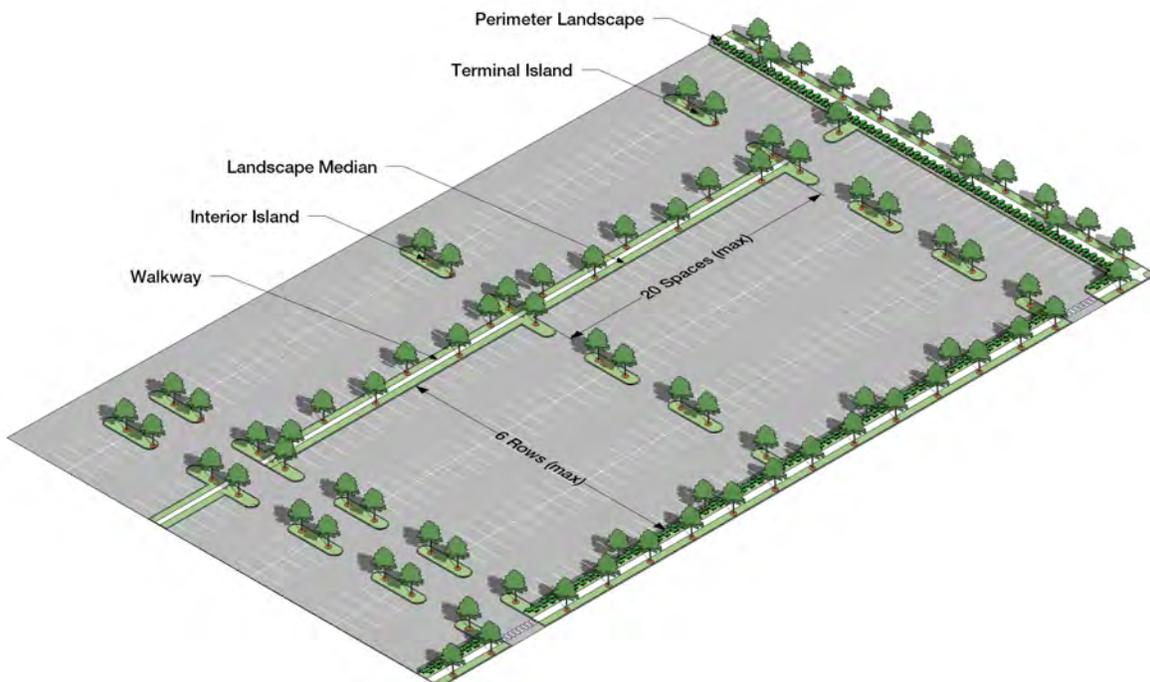
- 1. Where any parking lot is located along, within 50 feet of, and visible from a public right-of-way other than an alley, the parking lot must be screened by a Type D buffer yard, designed per Section 7.1.6. The following are exceptions:
  - a. In lieu of a Type D buffer yard, a solid masonry wall may be installed at the right-of-way line of between two feet and

three and one-half feet in height.

- b. In lieu of a Type D buffer yard, in the N-1D, N-1C, and N-1S zones only, dedicated spaces for market stalls or mobile food vendors may be provided adjacent to the right-of-way line.
2. Where any parking lot is located along, within 50 feet of, and visible from an interior side or rear lot line 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, the parking lot must be screened by a Type C buffer yard, designed per Section 7.1.6.
  3. Parking lot perimeter landscape must be integral, where possible, with on-site stormwater management facilities installed in accordance with Section 7.3.
- C. Parking Lot Interior.** With the exception of parking lots in the D-IL and D-IH zones, the interior of parking lots containing 20 or more parking spaces must be landscaped as follows:
1. At least 10% of the interior of the parking lot, calculated as the total surface area of

all parking spaces, drive aisles, and interior landscape, must be planted with landscape. Parking lot perimeter landscape required by Section 7.1.5.B is not counted toward the minimum interior landscape requirement.

2. At least one shade tree of a minimum caliper of two inches must be installed within the parking lot interior for every 20 parking spaces, and distributed so that no parking space is more than 150 feet from a tree. The following are exceptions to this requirement:
  - a. An existing shade tree may fulfill this requirement, so long as the existing shade tree is a minimum of four inches diameter at breast height, possesses a healthy and full canopy, has an unmolested critical root zone, and has incurred no damage that would undermine its long-term vitality and quality.
  - b. In lieu of one required shade tree, three ornamental trees of a minimum caliper of one and one-half inch may be installed.
3. Landscape islands must be installed as



follows:

- a.** A terminal island must be provided at the beginning and end of each parking row. No more than 40 parking spaces may be located between terminal islands. Interior islands must be used to break up parking spaces into groups of no more than 20 contiguous spaces.
  - b.** Interior islands and terminal islands must extend across the depth of the parking row. An interior or terminal island must be at least eight feet in width and 150 square feet in area in the case of a single parking row or, in the case of a double parking row, at least eight feet in width and 300 square feet in area.
  - c.** At least one shade tree is required in each interior or terminal island that extends the length of a single parking row or, in the case of a double parking row, at least two shade trees are required.
  - d.** Landscape islands may be consolidated or intervals may be adjusted as necessary to preserve existing trees or facilitate stormwater management.
- 4.** Landscape medians must be installed as follows:
- a.** A landscape median must be provided between every six parking rows.
  - b.** A landscape median must be at least seven feet in width and planted with landscape, including at least one shade tree for every 30 feet of median length. In lieu of one shade tree, three ornamental trees may be planted.
  - c.** A landscape median may also serve as the location for a sidewalk connecting the parking and the use served by the parking area, in which case the width must be at least 12 feet.
  - d.** Landscape medians may be

consolidated or intervals may be adjusted where necessary to preserve existing trees or facilitate stormwater management.

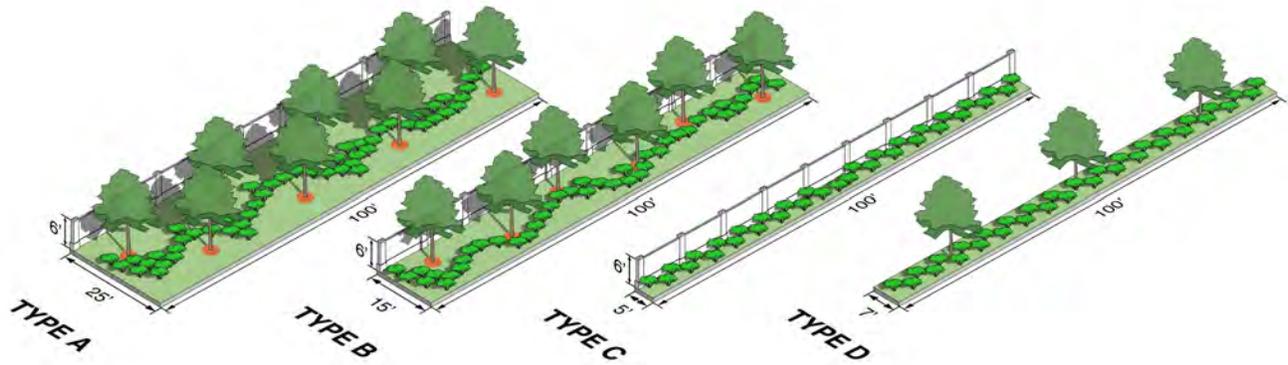
- 5.** Parking lot interior landscape must be integral, where possible, with on-site stormwater management facilities per Section 7.3.
- 6.** All required plant materials within the parking lot interior must be maintained in a healthy, growing condition over their lifetime, or replaced as necessary.

### 7.1.6 Buffer Yards

#### A. Required Buffer Yards

- 1.** A buffer yard must be installed per Table 7A: Buffer Yards, where the below uses are introduced as part of any new development or as the result of a change of use. Refer to the applicable sections for more information.
  - a.** Car wash. Refer to Section 6.1.5.F.
  - b.** Drive-through facility. Refer to Section 6.1.5.I.
  - c.** Gas station. Refer to Section 6.1.5.M.
  - d.** Retail and service, heavy. Refer to Section 6.1.5.U.
  - e.** Self-storage facility. Refer to Section 6.1.5.V.
  - f.** Vehicle rental or sales. Refer to Section 6.1.5.Z.
  - g.** Vehicle Repair, Major. Refer to Section 6.1.5.AA.
  - h.** Industrial, heavy. Refer to Section 6.1.6.B.
  - i.** Industrial, light. Refer to Section 6.1.6.C.
  - j.** Junk/salvage yard. Refer to Section 6.1.6.D.
  - k.** Recycling facility. Refer to Section

TABLE 7A: BUFFER YARDS



	TYPE A	TYPE B	TYPE C	TYPE D
Buffer yard depth (min)	25'	15'	5'	7' or required corner side or front yard depth for the zone, whichever is greater
Fence/wall type	Solid	Solid	Solid	N/A
Fence/wall height (min/max)	6'/10'	6'/8'	6'/7'	N/A
Shade trees (min per 100')	8	6	N/A	3
Ornamental trees (min per 100')	In lieu of planting a required shade tree, 3 ornamental trees may be planted	In lieu of planting a required shade tree, 3 ornamental trees may be planted	N/A	In lieu of planting a required shade tree, 3 ornamental trees may be planted
Shrubs (min per 100')	50	40	33	33

6.1.6.F.

- l.** Storage yard. Refer to Section 6.1.6.H.
- m.** Warehouse/distribution. Refer to Section 6.1.6.I.
- n.** Waste transfer station. Refer to Section 6.1.6.J.
- o.** Truck stop. Refer to Section 6.1.8.O.
- p.** Wireless communication tower. Refer to Section 6.1.9.F.
- q.** Parking lot perimeter. Refer to Section 7.1.5.B.
- r.** Loading areas. Refer to Section 8.3.7.B.

- 2.** Where a proposed project is subject to major site plan review per Section 11.3.7, the City Planning Board, where it finds that the project may have an adverse impact on any adjacent property or the surrounding neighborhood, may require the installation of a buffer yard, of a type described in Table 7A: Buffer Yards, to mitigate such impacts.

**B. Buffer Yard Parameters**

- 1.** A buffer yard is determined exclusive of any required front, corner side, interior side, rear, or waterfront yard. However, the buffer yard may be located wholly or partially within required yards.
- 2.** A buffer yard must be located within the outer perimeter of the lot, parallel to and extending to the applicable lot line. A buffer yard may not be located within the adjacent public right-of-way.
- 3.** Where a fence and landscaping are required within the buffer yard in accordance with Table 7A: Buffer Yards, the fence must be positioned interior to the landscaping, except for buffer yards along an interior side or rear lot line, where fences must be positioned exterior to the landscaping. However, the City Planning Board may adjust the positioning of

a fence within a buffer yard to better mitigate potential impacts between the proposed project and adjacent properties.

- 4.** No building, accessory structure, or vehicle parking, may encroach upon a buffer yard, with the following exceptions:
  - a.** Pedestrian and vehicle access points, plus related signs, may encroach upon a buffer yard.
  - b.** Where a proposed project is subject to major site plan review, per Section 11.3.7, the City Planning Board may allow a building or other structure to be located within a required buffer yard, where it finds the building or other structure would better mitigate potential impacts between the proposed project and adjacent properties. This exception does not allow for the waiver by the City Planning Board of any other required yard, per the applicable zone regulations.
- 5.** A natural, pre-existing grade separation may be conserved, or a man-made berm retained or installed, in lieu of a fence or wall to the extent that the height of the berm or pre-existing grade separation meets the minimum required height of the fence or wall.

**C. Buffer Yard Landscape**

- 1.** Required buffer yard landscape must be of the following dimensions at installation:
  - a.** Shade trees must be of a minimum caliper of two inches.
  - b.** Ornamental trees must be of a minimum caliper of one and one-half inches.
  - c.** Shrubs must be of a five gallon container minimum.
- 2.** Pre-existing, equivalent vegetation that is conserved within the buffer yard may substitute for any required landscape installation, so long as the pre-existing

vegetation is healthy and growing.

3. Any required trees or shrubs may be installed at varying distances to create a naturalistic landscape design, so long as the per linear foot requirement is applied as an average, and the landscape is arranged so as to provide sufficient screening.
4. Buffer yards must be integral, where possible, with on-site stormwater management facilities.
5. All required plant materials within the buffer yard must be maintained in a healthy, growing condition over their lifetime, or replaced where necessary.
6. Except as it relates to the required height of fences and walls for buffer yards, fences and walls must be installed and maintained in accordance with Section 7.2.

## 7.2 FENCES AND WALLS

### 7.2.1 General

- A. The construction of a new fence or wall, or reconstruction of at least 50% of an existing fence or wall, must comply with the standards of this section. The height standards of this section do not apply to fences or walls required for buffer yards, which are addressed by Section 7.1.6.
- B. A fence or wall may encroach upon any required yard, except for a required waterfront yard, so long as the fence or wall is aligned parallel or radial to the adjacent property line. No fence or wall may be erected in a required waterfront yard.
- C. No fence or wall may encroach upon a public right-of-way, conflict with required corner visibility, interfere with any utility line, or obstruct any legally required ingress or egress point.

### 7.2.2 Design and Construction

#### A. Materials

1. Fences and walls must be constructed of permanent, durable materials, such as brick, stone, concrete, textile block, wood, iron, or steel. Vinyl or chain link fence materials are not allowed in the N-1D, N-1C, N-2C, N-2E, N-3C, or N-3E zones.
2. No fence or wall may be constructed of barbed wire, concertina wire, razor wire, electrically charged wire, railroad ties; standard, fluted, or split face concrete masonry units (CMU); scrap metal, tarps, or any other material determined by the Commissioner of Permit and Inspection Services to be detrimental to the public health, safety, and welfare.

#### B. Height

1. The height of all fences and walls is measured from the average ground level within two feet of the base of the fence or wall. An additional one foot of height is allowed, above the maximum permitted height, for posts, columns, light fixtures, or other decorative details.

2. Fences and walls along front lot lines or within a front yard must not exceed four feet in height. In the D-IL and D-IH zones only, such fences and walls may be up to eight feet in height.
  3. Fences and walls along corner side lot lines or within a corner side yard must not exceed four feet in height, except that fences and walls may be up to six feet in height between the point of intersection of the corner side wall and rear wall of the principal structure, to the rear lot line. In the D-IL and D-IH zones only, such fences and walls may be up to eight feet in height.
  4. Fences and walls along interior side lot lines or within interior side yards must not exceed four feet in height, except that fences and walls may be up to six feet in height between the point of intersection of the interior side wall and rear wall of the principal structure, to the rear lot line. In the D-IL and D-IH zones only, such fences and walls may be up to eight feet in height.
  5. Fences and walls along rear lot lines or within rear yards must not exceed six feet in height. In the D-IL and D-IH zones only, such fences and walls may be up to eight feet in height.
  6. An open fence enclosing a tennis, basketball, pickleball, or other recreational court may be erected to a maximum of 12 feet in height, irrespective of the above standards.
- C. Finish.** All fence posts and related supporting members of a fence must be erected so that the finished sides of the fence face the adjacent property or public right-of-way.
- D. Maintenance.** Fences and walls, including supports, must be maintained in a proper state of repair. Any damage to or deterioration of a fence or wall, whether due to vandalism, weather, age, loss of mortar, or peeling paint, must be repaired as soon as practicable or within 30 days of receipt of notice from the Commissioner of Permit and Inspection Services.

## 7.3 STORMWATER

All land development activity must manage construction and post-construction stormwater runoff in accordance with this section.

### 7.3.1 General

- A.** Any land development activity that will involve soil disturbance of one-quarter acre (10,890 square feet) or more, or soil disturbance of less than one-quarter acre that is part of a larger development plan consisting of at least one-quarter acre in area, requires submission by the applicant of a Stormwater Pollution Prevention Plan (SWPPP) prepared per the requirements of the Buffalo Sewer Authority. Applicants proposing land development activity that falls below this threshold must manage construction and post-construction stormwater runoff, but are not required to prepare a SWPPP. A SWPPP must be completed as part of site plan review.
- B.** The SWPPP must be prepared by a New York State licensed engineer or registered landscape architect, and must be signed and stamped by the professional preparing the plan, who must certify that the design of all stormwater management practices meets the requirements of this section.
- C.** The property owner must ensure proper operation and maintenance of permanent stormwater management facilities installed in accordance with this section, and must provide certification of their continued performance every five years.

### 7.3.2 Technical Guides

- A.** The below documents serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed per the most recent or successor versions of these technical documents are presumed to meet the performance standards of this section.
  1. New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation).

2. New York State Standards and Specifications for Erosion and Sediment Control (New York State Department of Environmental Conservation).
  3. TR-55 Urban Hydrology for Small Watersheds (United States Department of Agriculture).
  4. Precipitation Frequency Atlas of the United States (National Oceanic and Atmospheric Administration).
- B.** Where stormwater management practices are not in accordance with technical documents referenced in Section 7.3.2.A, the applicant must demonstrate equivalence to the technical standards.

### 7.3.3 Performance Standards

All land development activity is subject to the following performance and design criteria:

- A.** For all projects for which a SWPPP is required, erosion and sediment control measures must be undertaken which are in accordance with the New York State Standards and Specifications for Erosion and Sediment Control.
- B.** Where technically feasible, stormwater discharges must be directed to sewers according to the following hierarchy of preference:
1. Storm Only Sewer.
  2. Storm Overflow Sewer.
  3. Storm Relief Sewer.
  4. Combined Sewer.
- C.** Where the stormwater will be released to a storm-only sewer or storm overflow sewer, the project must meet both the sizing criteria and water quality standards contained in the New York State Stormwater Management Design Manual.
- D.** Where stormwater will be released to a storm relief sewer or combined sewer, the project must demonstrate that post-development peak flows during a 25-year storm will be less than pre-development peak flows during a 2-year storm.

### 7.3.4 Best Management Practices

- A.** Where practicable, stormwater management facilities should utilize Green Infrastructure Best Management Practices (BMPs) according to the following hierarchy of preference:
1. Conservation of natural areas.
  2. On-site infiltration practices including, but not limited to, bioretention cells/rain gardens, vegetated swales, filter strips, constructed wetlands and porous pavement.
  3. Capture and reuse of runoff through low-impact practices including, but not limited to, green roofs, blue roofs, and rain barrels or cisterns.
- B.** Where on-site green infrastructure BMPs are not feasible for all or a portion of stormwater runoff volume due to factors including, but not limited to, contamination, high groundwater table, shallow bedrock, or poor infiltration rates, or where it can be proven that such practices would cause property or environmental damage, the remaining portion may be treated by another stormwater management practice acceptable to the Buffalo Sewer Authority.
- C.** In cases where on-site BMPs have been determined not to be feasible, the Buffalo Sewer Authority may consider the following alternative stormwater management practices to meet water quantity standards, in order of preference:
1. Off-site green infrastructure BMPs within the same sub-sewershed;
  2. Retention through subsurface infiltration or underground storage vaults;
  3. Detention through underground storage vaults.
- D.** BMPs that are implemented within the public right-of-way may not be designed to accept or treat stormwater from private property, except for sewer system infrastructure per the specifications of the Buffalo Sewer Authority.

- E. Where underground storage vaults are utilized for detention discharge to a storm only or storm overflow sewer, water quality standards must be met through the use of a New York State Department of Environmental Conservation approved proprietary technology.
- F. Where stormwater management performance standards cannot be met due to unique site constraints or any other conditions beyond the control of the applicant, the Buffalo Sewer Authority may provide an exemption to the standards of this section.

## 7.4 OUTDOOR LIGHTING

### 7.4.1 General

- A. All outdoor lighting must comply with the requirements of this section, with the following exceptions:
  1. Lighting for bridges, monuments, statuary, flags, and public buildings.
  2. Sign illumination, which is addressed by Section 9.1.5.
  3. Repairs to existing lighting, where no more than 25% of existing luminaires are repaired or replaced. Repairs include the reconstruction or renewal of any part of an existing luminaire, other than replacement of components such as lamps, capacitors, ballasts, or photocells.
  4. Temporary special purpose lighting, such as lighting for special events, television broadcasts, or construction sites.
  5. Underwater lighting in swimming pools and other water features.
  6. Temporary holiday lighting.
  7. Low intensity lighting used in landscape design and to illuminate walkways.
  8. Lighting used under emergency conditions.
  9. Lighting required by federal, state, or local regulations.
  10. Any lighting approved by a special use permit.
- B. **Lighting Plan.** All developments subject to site plan review per Section 11.3.6 or 11.3.7 must submit a lighting plan, stamped by a New York State licensed engineer or other qualified professional, demonstrating compliance with this section. Single-unit dwellings, double-unit dwellings, and multi-unit dwellings of six units or less, are exempt from this requirement.

### 7.4.2 Lighting Zones

**A. Lighting Zone Descriptions.** Each zone is assigned a lighting zone that describes the level and type of illumination allowed per site. The lighting zones are described as follows:

1. **LZ-0: No Ambient Lighting.** Areas where the natural environment will be seriously and adversely affected by lighting. Impacts include disturbing the biological cycles of flora and fauna or detracting from enjoyment and appreciation of the natural environment.
2. **LZ-1: Low Ambient Lighting.** Areas where lighting might adversely affect flora and fauna or disturb the character of the area. Lighting may be used for safety and convenience but is not necessarily uniform or continuous.
3. **LZ-2: Moderate Ambient Lighting.** Areas of activity with moderate light levels. Lighting is used for safety and convenience, but it is not necessarily uniform or continuous.
4. **LZ-3: Moderately High Ambient Lighting.** Areas of activity with moderately high light levels. Lighting is generally desired for safety, security, and convenience, and is often uniform and continuous.
5. **LZ-4: Very High Ambient Lighting.** Areas of activity with very high light levels. Lighting is generally considered necessary for safety, security, and convenience, and is mostly uniform and continuous.

**B. Lighting Zone Assignments.** Table 7B: Lighting Zones identifies the lighting zones assigned to each zone. Within each lighting zone, there are separate standards in Section 7.4.3 for non-residential and residential uses with more than six units, and for residential uses with six units or less.

### 7.4.3 Lighting Standards

**A. Lighting for Non-Residential and Residential Uses With More Than Six Units.** For all non-residential properties, and for multi-unit dwellings of more than six dwelling units with common outdoor areas, such as courtyards or parking lots, all outdoor lighting must comply with the following:

1. **Total Site Lumen Limit.** The total installed initial luminaire lumens of all outdoor lighting may not exceed the total site lumen limit of Table 7C: Total Site Lumen Limits, except as otherwise permitted by this section. The total installed initial luminaire lumens is calculated as the sum of the initial luminaire lumens for all luminaires. For sites with existing outdoor lighting, the existing lighting must be included in the calculation of total installed lumens.
2. **Maximum BUG Ratings.** All luminaires must be rated and installed according to Table 7D: Maximum BUG Ratings, which describes the maximum backlight (B), uplight (U), and glare (G), as rated by the luminaire manufacturer, allowed in each lighting zone. Luminaires equipped with adjustable mounting devices

TABLE 7B: LIGHTING ZONES

	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	
LZ-0																						●	
LZ-1											●										●		
LZ-2					●	●		●	●	●		●				●	●		●				
LZ-3			●	●			●						●	●	●				●				
LZ-4	●	●																					●

permitting alteration of luminaire aiming are not permitted.

3. **Additional Allowable Lumens.** Additional lumens are allowed, above the total site lumen limits identified in Table 7C, for the following lighting applications:
  - a. **Building Entrances or Exits.** An additional 400 lumens in LZ-0, 1,000 lumens in LZ-1, 2,000 lumens in LZ-2, 4,000 lumens in LZ-3, and 6,000 lumens in LZ-4 are allowed per door for building entrances or exits, so long as the luminaires are within 20 feet of the door.
  - b. **Building Facades.** An additional eight lumens in LZ-2, 16 lumens in LZ-3, and 24 lumens in LZ-4 are allowed per square foot of building facade that is to be illuminated, so long as the luminaires are aimed at the facade.
  - c. **Drive-Through Facilities.** An additional 4,000 lumens in LZ-2 and 8,000 lumens in LZ-3 and LZ-4 are allowed per drive-through window within 20 feet of the window.
  - d. **Gas Stations: Impervious and Semi-Pervious Surface.** An additional eight lumens in LZ-2, 16 lumens in LZ-3, and 24 lumens in LZ-4 are allowed per square foot of total illuminated impervious and semi-pervious surface of a gas station, not including building footprints or areas under canopies.
  - e. **Gas Stations: Under Canopies.** An additional 16 lumens in LZ-2 and 32 lumens in LZ-3 and LZ-4 are allowed per square foot of area within the drip line of a gas station canopy, and must be located under the canopy.
  - f. **Guard Stations.** An additional six lumens in LZ-1, 12 lumens in LZ-2, 24 lumens in LZ-3, and 36 lumens in LZ-4 are allowed per square foot of a guardhouse, plus 2,000 square feet per vehicle lane within

two mounting heights of a vehicle lane or guardhouse.

- g. **Outdoor Dining.** An additional five lumens in LZ-2, ten lumens in LZ-3, and 15 lumens in LZ-4 are allowed per square foot of total illuminated impervious or semi-pervious surface of an outdoor dining area within two mounting heights of the outdoor dining area.
- h. **Outdoor Display.** An additional eight lumens in LZ-2, 12 lumens in LZ-3, and 18 lumens in LZ-4 are allowed per square foot of outdoor display area, not including driveways, parking areas, or other non-sales areas within two mounting heights of the outdoor display area. This includes open-air markets.

**B. Lighting for Residential Uses With Six Units or Less.**

For residential dwellings of six units or less, all outdoor luminaires must be fully shielded, with the following exceptions:

1. Up to two partly shielded or unshielded luminaires at each main entrance.
2. Low voltage lighting that does not project onto adjacent properties.
3. Shielded directional flood lighting that is aimed so that direct glare is not visible from adjacent properties.
4. Lighting installed with a vacancy sensor, which extinguishes the lights no more than 15 minutes after the area is vacated.

**C. Lighting of Right-of-Way.** Outdoor lighting of public rights-of-way and private easements for vehicular, cyclist, or pedestrian ways must comply with the following:

1. All street light luminaires must be designed per the specifications of the Commissioner of the Department of Public Works, Parks, and Streets.

TABLE 7C: TOTAL SITE LUMEN LIMITS

	LZ-0	LZ-1	LZ-2	LZ-3	LZ-4
Total site lumens allowed per SF of impervious/semi-pervious surface area	0.5 lumens	1.25 lumens	2.5 lumens	5.0 lumens	7.5 lumens

TABLE 7D: MAXIMUM BUG RATINGS

MAXIMUM ALLOWABLE BACKLIGHT (B) RATING <sup>1</sup>	LZ-0	LZ-1	LZ-2	LZ-3	LZ-4
Greater than 2 mounting heights from property line	B1	B3	B4	B5	B5
1 to less than 2 mounting heights from property line and ideally oriented <sup>2</sup>	B1	B2	B3	B4	B4
0.5 to 1 mounting heights from property line and ideally oriented <sup>2</sup>	B0	B1	B2	B3	B3
Less than 0.5 mounting height to property line and properly oriented <sup>2</sup>	B0	B0	B0	B1	B2

MAXIMUM ALLOWABLE UPLIGHT (U) RATING

Allowed uplight rating	U0	U1	U2	U3	U4
Allowed % light emission above 90 degrees for street or area lighting	0%	0%	0%	0%	0%

MAXIMUM ALLOWABLE GLARE (G) RATING<sup>3</sup>

Allowed Glare Rating	G0	G1	G2	G3	G4
Any luminaire not ideally oriented <sup>4</sup> with 1 to less than 2 mounting heights to any property line of concern	G0	G0	G1	G1	G2
Any luminaire not ideally oriented <sup>4</sup> with 0.5 to 1 mounting heights to any property line of concern	G0	G0	G0	G1	G1
Any luminaire not ideally oriented <sup>4</sup> with less than 0.5 mounting heights to any property line of concern	G0	G0	G0	G0	G1

1. For property lines that abut public walkways, bikeways, plazas, and parking lots, the property line may be considered to be 5 feet beyond the actual property line for purpose of determining compliance with this section. For property lines that abut public roadways and public transit corridors, the property line may be considered to be the centerline of the public roadway or public transit corridor for the purpose of determining compliance with this section.

2. Ideally oriented means the luminaire is mounted with the backlight portion of the light output oriented perpendicular and towards the property line of concern.

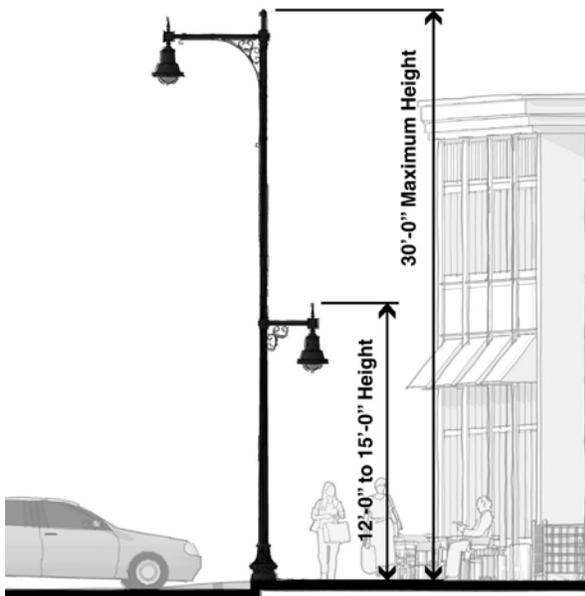
3. For property lines that abut public walkways, bikeways, plazas, and parking lots, the property line may be considered to be 5 feet beyond the actual property line for purpose of determining compliance with this section. For property lines that abut public roadways and public transit corridors, the property line may be considered to be the centerline of the public roadway or public transit corridor for the purpose of determining compliance with this section.

4. Any luminaire that cannot be mounted with its backlight perpendicular to any property line within twice the mounting height of the luminaire location must meet the reduced allowed glare rating.

2. Lighting fixture spacing must conform to light level and uniformity requirements per the American National Standard Practice for Roadway Lighting (RP-8) published by the Illuminating Engineering Society of North America (IESNA).
3. The suitability of the lighting fixture type for particular right-of-way and lighting conditions is at the discretion of the Commissioner of Public Works, Parks, and Streets. Lighting fixtures are divided into two basic types:
  - a. Vehicular lighting, intended to illuminate areas for vehicular travel and parking, may be no more than 30 feet in height.
  - b. Pedestrian lighting, intended to illuminate areas for pedestrian travel and seating, must be between 12 and 15 feet in height.

granted only where the lighting of such sites is found to be consistent with the general criteria of Section 11.3.3 and the following additional criteria:

- A. Every reasonable effort will be made to mitigate the effects of light on the environment and surrounding properties.
- B. The proposed use or lighting will not create unnecessary glare, sky glow, or light trespass.

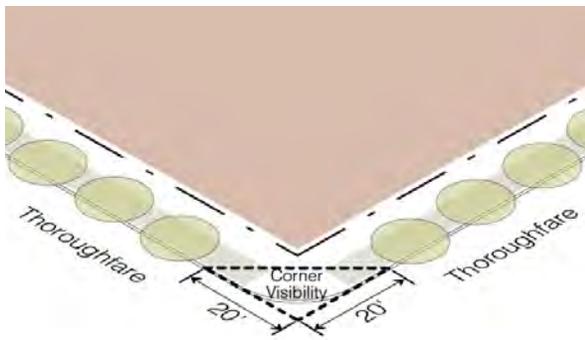


#### 7.4.4 Lighting by Special Use Permit

A special use permit may be issued for lighting of sites with special requirements, such as correctional facilities or sports fields, which does not comply with the technical requirements of this section but is consistent with its intent. A special use permit may be

## 7.5 CORNER VISIBILITY

Corner visibility must be provided along all public rights-of-way, except for passages and alleys, in the N-2R, N-3R, N-4-30, and N-4-50 zones. Corner visibility is defined as the triangular area formed by projecting the lines of intersecting curbs, or of street paving edges where there are no curbs, and a line joining these points 20 feet from their point of intersection. No structure, including signs and fences, may be erected, and no plant foliage may be maintained, between heights of three and one-half feet and ten feet above the curb level in this area.



## 7.6 SITE IMPACTS

### 7.6.1 Dust and Air Pollution

Dust and other types of air pollution that can be borne by the wind from the use must be controlled through appropriate landscape, sheltering, paving, wetting, collecting, or other means.

### 7.6.2 Electromagnetic Interference

Electromagnetic interference from any use must not adversely affect the operation of any equipment located off the lot where the interference originates.

### 7.6.3 Glare and Heat

Any activity or the operation of any use that produces glare or heat must be conducted so that no glare or heat from the activity or operation is detectable at any point off-site. Flickering or intense sources of light must be fully shielded.

### 7.6.4 Hazardous Materials

The use, storage, handling, transport, discharge, and disposal of hazardous materials, or materials that present potential fire and explosion hazards, must comply with applicable federal, state, and local laws and regulations. Radioactive and hazardous material waste must be transported, stored, and used in conformance with all federal, state, and local laws.

### 7.6.5 Noise

No use may be conducted in a manner that generates a sound level that is in violation of Chapter 293, Noise, of the City Code.

### 7.6.6 Odors

No use may emit odors of an intensity and character as to be detrimental to the public health, safety, and welfare. Odors lasting less than 15 minutes for every 24-hour period are exempt.

### 7.6.7 Vibration

No use may produce continuous, frequent, or repetitive vibrations that exceed 0.002g peak at up to 50 cycles per second frequency off-site, measured by seismic or electronic vibration measuring equipment, such as an accelerometer. Vibrations from vehicles that leave the site, such as trucks, trains, airplanes,

and helicopters, are exempt from this requirement. Vibrations lasting less than five minutes for every 24-hour period are exempt.

# Article 8. Access & Parking

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## 8.1 PEDESTRIAN ACCESS

### 8.1.1 General

Any development which involves new construction of a principal building, expansion of an existing principal building by 2,500 square feet or more, or substantial renovation of an existing principal building, must provide safe, direct, and convenient pedestrian facilities in accordance with Section 8.1.2.

### 8.1.2 Pedestrian Facilities

- A.** Pedestrian facilities must be provided connecting main entrances to parking, adjacent public rights-of-way and transit stops and stations, and all uses on a site that allow for public access.
- B.** Pedestrian facilities must consist of accessible, easily discernible, and ADA-compliant walkways. The pedestrian facilities must be paved with a fixed, firm, and non-slip material.
- C.** A parking lot must provide pedestrian facilities in accordance with Section 8.3.3.B.
- D.** Pedestrian facilities providing cross-access between abutting lots are encouraged.

## 8.2 BICYCLE ACCESS AND PARKING

### 8.2.1 General

**A.** Any development which involves new construction of a principal building, expansion of an existing principal building by 2,500 square feet or more, or substantial renovation of an existing principal building, must provide bicycle parking in accordance with this section.

**B.** Table 8A: Bicycle Parking identifies the minimum number of bicycle parking spaces required per principal use, plus the percentage of these spaces that must be designed for long-term parking, versus short-term. If the principal use is not listed, no bicycle parking is required. The required minimum number of spaces is calculated as follows:

- 1.** The number of bicycle parking spaces, not the number of bicycle parking fixtures, is calculated to determine compliance; i.e., a single bicycle rack that is designed for parking two bicycles is counted as two bicycle parking spaces.
- 2.** A minimum of two bicycle parking spaces must be provided for each principal use where bicycle parking is required.
- 3.** After the first 20 bicycle parking spaces, no additional bicycle parking is required for a principal use.
- 4.** When there is more than one principal use on a site, the required bicycle parking for the site is the sum of the required parking for the individual principal uses.

**C. Short-Term and Long-Term Parking.** Short-term bicycle parking and long-term bicycle parking are described as follows:

- 1.** Short-term bicycle parking accommodates visitors, customers, messengers, and other persons who intend to depart within two hours or less. Fixtures include bicycle racks, which may be unsheltered. Standards for the

TABLE 8A: BICYCLE PARKING

USE CATEGORY	PRINCIPAL USE	REQUIRED BICYCLE PARKING SPACES (MIN.)	PERCENTAGE FOR LONG-TERM SPACES (MIN.)
RESIDENTIAL	Dormitory	1 per 5 beds	90%
	Dwelling, Multiple Unit	1 per 5 dwelling units	90%
	Emergency Shelter	1 per 5 beds	90%
	Residential Care Facility	1 per 20 beds	90%
CIVIC	Assembly	1 per 20 seats, 40' of bench seating, or 100 SF of open floor seating area	0%
	College/University	2 per classroom	25%
	Cultural Facility	1 per 10,000 SF of gross floor area	25%
	Government Offices	1 per 10,000 SF of gross floor area	75%
	Hospital	1 per 10,000 SF of gross floor area	75%
	Lodge or Private Club	1 per 3,000 SF of gross floor area	25%
	Open Space	2 per acre	0%
	Primary/Secondary School	2 per classroom	25%
	Zoo	1 per 10,000 SF of gross floor area	75%
	LODGING	Hotel/Hostel	1 per 20 rooms
Rooming House/S.R.O.		1 per 5 rooms	75%
RETAIL & SERVICE	Alcohol Sales	1 per 3,000 SF of gross floor area	0%
	Amusement Facility, Indoor or Outdoor	1 per 10,000 SF of gross floor area	0%
	Animal Care Establishment	1 per 3,000 SF of gross floor area	0%
	Commercial School	1 per 3,000 SF of gross floor area	0%
	Day Care Center	1 per 3,000 SF of gross floor area	0%
	Food Center/Supply Pantry	1 per 3,000 SF of gross floor area	0%
	Garden Center	1 per 3,000 SF of gross floor area	0%
	Human Services Facility	1 per 3,000 SF of gross floor area	0%
	Live Entertainment	1 per 3,000 SF of gross floor area	0%
	Medical Clinic	1 per 10,000 SF of gross floor area	0%
	Open-Air Market	1 per 5 market stalls	0%
	Restaurant	1 per 3,000 SF of gross floor area	0%
	Retail & Service, General	1 per 3,000 SF of gross floor area	0%
	Retail & Service, Heavy	1 per 10,000 SF of gross floor area	0%
	Tavern	1 per 3,000 SF of gross floor area	0%
Tobacco/Hookah/Vaping Establishment	1 per 3,000 SF of gross floor area	0%	
EMPLOYMENT	Industrial, Artisan	1 per 10,000 SF of gross floor area	75%
	Industrial, Heavy and Light	1 per 25,000 SF of gross floor area	75%
	Professional Offices	1 per 10,000 SF of gross floor area	75%
	Research/Laboratory Facility	1 per 10,000 SF of gross floor area	75%
	Warehouse/Distribution	1 per 25,000 SF of gross floor area	75%
TRANSPORTATION	Freight Terminal	1 per 25,000 SF of gross floor area	75%
	Metro Rail Station	20 per station	75%
	Parking Lot or Parking Structure	1 per 20 automobile stalls	0%
	Passenger Terminal	1 per 10,000 SF of gross floor area	0%

design of short-term bicycle parking are found in Section 8.2.2.

2. Long-term bicycle parking accommodates employees, students, residents, commuters, and other persons who intend to leave their bicycle parked for more than two hours. Fixtures include lockers and bicycle racks in secured areas, and are always sheltered or enclosed. Standards for the design of long-term bicycle parking are found in Section 8.2.3.

**D. Bicycle Parking Fixtures.** The following standards apply to all bicycle parking fixtures, whether short-term or long-term parking:

1. A bicycle parking space must be at least six feet long and two feet wide with a five foot access aisle.
2. All bicycle parking spaces must be constructed in accordance with the latest version of the Association of Pedestrian and Bicycle Professionals Bicycle Parking Guidelines.
3. Where 50% or more of vehicle parking spaces on site are provided in a structure, all required long-term bicycle spaces must be located inside that structure or in other areas protected from the weather.

**E. Signs.** If required bicycle parking is not visible from the street or public entrance, a sign must be posted at the public entrance indicating the location of the parking. The D4-3 sign of the Manual On Uniform Traffic Control Devices (MUTCD) is recommended.



**F. Bicycle Parking Stations.** Property owners may cooperate to install a bicycle parking station, defined as 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. Such a facility, when within 1,320 feet of the uses served, may furnish required long-term bicycle parking in lieu of site-by-site compliance.

### 8.2.2 Short-Term Bicycle Parking

**A.** A short-term bicycle parking area must be placed within 100 feet of, and clearly visible from, the main entrance to the use served.

**B.** All bicycle racks must be:

1. Securely anchored.
2. Able to support the bicycle frame in at least two places to prevent the bicycle from falling over.
3. Configured to allow locking of the frame and at least one wheel with a U-lock.
4. Constructed of materials that resist cutting, rusting, bending, or deformation.

**C.** A bicycle rack may be erected on a public sidewalk, provided that the bicycle rack is situated wholly within the furnishings zone of the sidewalk and an encroachment permit is granted by the Commissioner of Public Works, Parks, and Streets per Section 11.4.1. A bicycle rack may also consist of a hoop affixed to a parking meter, provided that permission is granted by the Commissioner of Parking.

**D.** Any required short-term bicycle parking provided in a structure or under cover must be:

1. Provided at ground level.
2. Provided free of charge.
3. Clearly marked as bicycle parking.
4. Separated from vehicle parking by a physical barrier to minimize the possibility of parked bicycles being hit by a vehicle.

### 8.2.3 Long-Term Bicycle Parking

- A.** Long-term bicycle parking must be provided in a well-lit, secure location within convenient distance of a public entrance, building lobby, or other common area.
- B.** Examples of long-term bicycle parking design include:
  1. A bicycle locker.
  2. A lockable bicycle cage or other enclosure.
  3. A lockable bicycle room.
  4. A designated space visible from employee workstations.
- C.** All required long-term bicycle parking spaces must be designed to provide continuous shelter from the elements.

### 8.2.4 Waivers

The City Planning Board may issue a written waiver of bicycle parking minimums, in whole or part, if an applicant shows, through a letter of concurrence furnished by a qualified professional, that the minimum required number of bicycle parking spaces exceeds the probable demand.

## 8.3 VEHICLE ACCESS AND PARKING

### 8.3.1 General

- A. Off-Street Parking.** There are no provisions that establish a minimum number of off-street parking spaces for development. However, certain development proposals are required to complete a transportation demand management plan, per Section 8.4, which can result in the provision of off-street parking. Where provided, off-street vehicle parking must comply with the standards of this section.
- B. Accessibility.** All vehicle parking lots and parking structures must conform with the ADA Standards for Accessible Design and ADA Accessibility Guidelines for Buildings and Facilities published by the United States Access Board.
- C. Parking Access**
  1. All off-street vehicle parking must have direct access to a public right-of way through an alley, driveway, or permanent access easement.
  2. If an improved alley with a right-of-way of at least 18 feet in width is provided, all vehicle access should take place from the alley.
  3. Entries for parking must be placed along a secondary thoroughfare or alley, where practicable.
- D. Vehicular Circulation**
  1. All parking lots and parking structures must be designed so that vehicles enter or leave a parking space without having to move any other vehicle. Parking lots and structures where vehicles are moved by employees of the facility are exempt from this requirement.
  2. Parking lots and parking structures must be designed so that the driver of the vehicle proceeds forward into traffic rather than backs out into traffic.
  3. Parking lots and parking structures must be designed so that a vehicle is not forced

to back onto the public right-of-way to gain access from one parking aisle to another parking aisle.

4. Any parking row that does not provide two means of vehicular egress must provide, at the closed end, a space designated as a turn-around area. This space must be located at the end of a parking row, be designed with a minimum dimension of nine feet in width by nine feet in depth, and include a “No Parking” sign. Parking lots of less than 50 spaces are exempt from this provision.
5. Vehicle circulation providing cross-access between abutting lots is encouraged.

**E. Stall and Aisle Dimensions.** All off-street parking spaces and drive aisles must comply with the minimum dimensional standards shown in Table 8B: Parking Stall and Drive Aisle Dimensions, with the following exceptions:

1. Motorcycle and scooter parking stalls must

measure at least four feet in width and eight feet in depth.

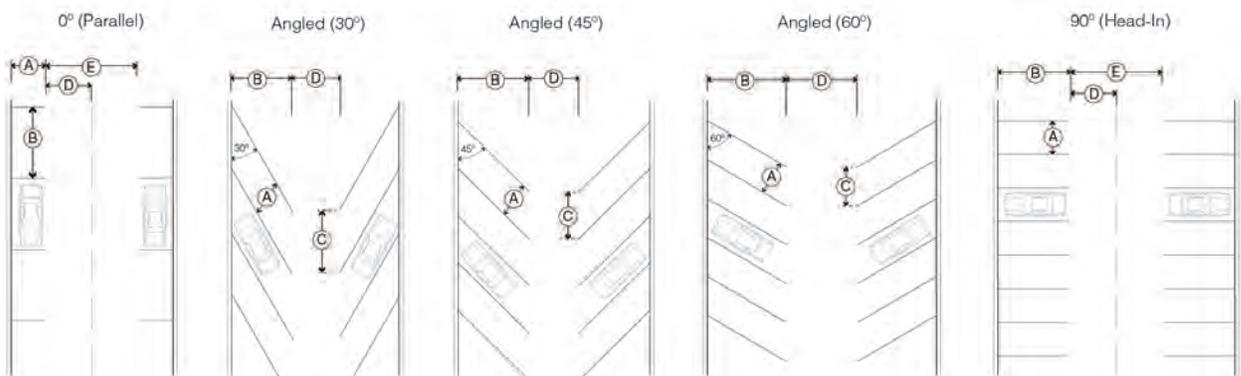
2. Mechanical access parking is exempt from parking stall and drive aisle dimensional requirements.

**F. Off-Site Parking.** Accessory parking is allowed on an off-site lot within 1,320 feet of the use served, measured by closest walking distance from the closest public entrance to the off-site parking lot.

1. Parking provided by valet service is not subject to the maximum distance requirement. No off-site parking lot may be located within an N-2R, N-3R, N-4-30, or N-4-50 zone.
2. An off-site parking lot is not permitted as a principal use in the N-1D, N-1C, N-2C, N-2E, N-3C, or N-3E zone, except in the case of a commercial or neighborhood parking lot open to the general public, as permitted under Article 6, Uses.

TABLE 8B: PARKING STALL AND DRIVE AISLE DIMENSIONS

STALL ANGLE	STALL WIDTH (MIN) (A)	STALL DEPTH (MIN) (B)	SKEW WIDTH (MIN) (C)	DRIVE AISLE WIDTH, 1-WAY (MIN) (D)	DRIVE AISLE WIDTH, 2 WAY (MIN) (E)	VERTICAL CLEARANCE (MIN)
0 degrees (parallel)	8'	18'	8'	11'	22'	7' 6"
30 degrees	8' 6"	15'	16' 6"	11'	--	7' 6"
45 degrees	8' 6"	17' 9"	11' 8"	11' 10"	--	7' 6"
60 degrees	8' 6"	19'	9' 6"	13' 6"	--	7' 6"
90 degrees (head-in)	8' 6"	18'	8' 6"	--	23'	7' 6"



**G. Parking Surfaces.** All driveways, parking stalls, drive aisles, and loading areas:

1. Must be surfaced with fixed, firm, and non-slip material. Gravel may be used as a surface material only with the written consent of the Commissioner of Permit and Inspection Services. The portion of a driveway within a public right-of-way must be constructed in accordance with the specifications of the Commissioner of Public Works, Parks, and Streets.
2. Must be capable of withstanding the weight of vehicles and their loads.
3. Should be rated with a Solar Reflectance Index (SRI) of at least 29.

**8.3.2 Curb Cuts and Driveways**

**A. Curb Cuts**

1. A curb cut may be installed only with a curb cut permit per Section 11.4.2.
2. Curb cuts must be located to minimize conflict with pedestrian, cyclist, and vehicular traffic on the abutting public right-of-way. Curb cuts should be located at least 60 feet from any intersection unless otherwise permitted by the Commissioner of the Department of Public Works, Parks, and Streets.
3. The number and width of curb cuts must be the minimum needed to provide reasonable access to the site.

**B. Driveway Dimensions.** Driveways must be in accordance with Table 8C: Driveway Dimensions. A driveway flare may exceed the allowable driveway dimension by up to 18 inches on either side.

**TABLE 8C: DRIVEWAY DIMENSIONS**

	WIDTH (MIN/MAX)
Single-lane driveway	8'/12'
Double-lane driveway	18'/24'

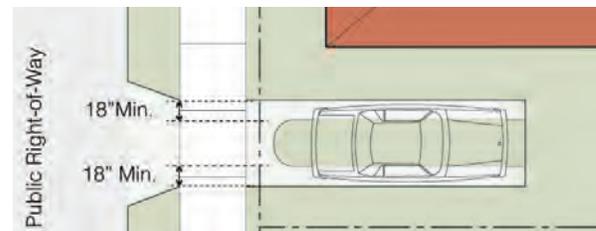
**C. Residential Driveways.** For any property with a residential principal use in an N-2R, N-3R, N-4-30, or

N-4-50 zone, there may only be one driveway, which must be a single-lane driveway, with the following exception:

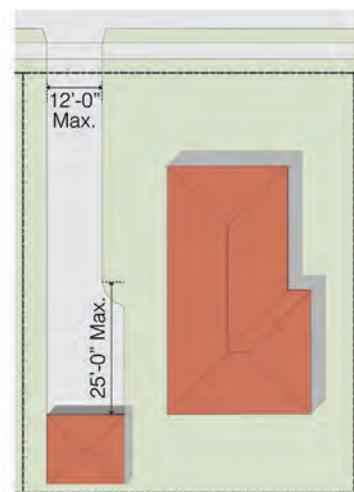
1. Multi-unit dwellings of more than six units may have one double-lane driveway or two single-lane driveways.

**D. Shared Driveways.** Shared driveways are permitted, so long as the width of the driveway meets the dimensional standards of Table 8C.

**E. Double-Track Driveways.** Double-track/wheel strip driveways are allowed, so long as each wheel strip is at least 18 inches in width and the area between the wheel strips is landscaped with living groundcover. However, within the public right-of-way, the driveway must be fully paved along its total width, from the property line to the curbline, per the specifications of the Commissioner of Public Works, Parks, and Streets.



**F. Garage Aprons.** A garage apron, that exceeds the maximum permitted driveway width, is permitted to extend for a depth of 25 feet from the garage doors, at which point the driveway must be no wider than the maximum permitted driveway width. The garage apron may be only as wide as the width of the garage.



### 8.3.3 Parking Lots

**A. Accessory Parking Location.** Accessory surface parking must be located on the site in relation to the principal building in accordance with Table 8D: Accessory Surface Parking Location, with the following exceptions:

1. If parking is located more than 100 feet from a public right-of-way, the parking may be located within any yard, regardless of the limitations of Table 8D.
2. Parking for an Attached House or a Detached House building type may be located in

a driveway within an interior side or rear yard. Parking is not allowed forwards of any Attached House or Detached House building type.

3. In the N-3E zone, a surface parking lot may be installed in an interior side yard only if expressly permitted by the City Planning Board during site plan review. In making such a determination, the City Planning Board must make written findings that the interior side parking lot will be consistent with the general character of the surrounding neighborhood and will not adversely impact the quality of the public realm. In no case may the City Planning Board grant such permission within the C-M overlay zone or where the construction of the parking lot requires the demolition of an existing building.
4. Any variance sought related to this section will be considered an area variance, per Section 11.3.5.

TABLE 8D: ACCESSORY SURFACE PARKING LOCATION

	FRONT YARD	CORNER SIDE YARD	INTERIOR SIDE YARD	REAR YARD
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-M				●
C-R	●	●	●	●

● Permitted

◐ Only permitted through major site plan review

### B. Pedestrian Facilities

1. All parking lots with three or more double-loaded rows must provide internal pedestrian walkways within the parking area and outside of the parking row.
  - a. The walkway must be a minimum of eight feet in width. Walkways may be reduced to five feet in width if designed as a grade separated walkway with landscape buffers on either side.
  - b. One walkway is required for every three double loaded aisles.
  - c. The walkway must be located within the parking area to serve the maximum number of parking stalls.
2. Where required by this section, a walkway must provide a direct connection to building entrances from the spaces furthest from the entrances. At least one walkway must provide a direct connection between the building entrances and adjacent public rights-of-way

and trails. Where practicable, a walkway connecting to an adjacent right-of-way should direct pedestrians to/from a crosswalk.

3. Where provided, pedestrian walkways must be clearly marked with high-visibility striping, such as continental striping, or through the use of alternative materials, such as pavers. Where walkways cross a drive aisle, the walkway must have a continuous surface treatment across the drive aisle.

**C. Design and Construction**

1. No surface parking may have a slope in excess of 10%.
2. Parking spaces must be delineated with paint or similar method, and maintained in clearly visible condition. Parking spaces for the disabled must be identified with appropriate signage and visible at all times.
3. Wheel stops, bumper guards, or other alternatives, which are properly anchored and secured, must be provided to prevent vehicles from damaging or encroaching upon any sidewalk, landscape, fence, wall, or structure.
4. All parking lots must be landscaped in accordance with Section 7.1.5.
5. Parking lot lighting must be in accordance with Section 7.4.
6. All traffic control signs must be installed in accordance with the Manual for Uniform Traffic Control Devices (MUTCD), plus the New York State Supplement.
7. All parking lots must drain into a city sewer or stormwater management facility, per Buffalo Sewer Authority specifications.

**8.3.4 Parking Structures**

**A. Parking structures must be designed as follows:**

1. Internal circulation and parking levels must be oriented so that a horizontal, rather than sloped, plane faces the principal

thoroughfare abutting the site.

2. Any rooftop open-air parking must be screened with a parapet of between four and five feet in height.
3. Where parking spaces are visible along the front or corner side facades of the ground story of a parking structure, a kneewall of at least three feet in height must be provided. Parking structures located more than 150 feet from a public right-of-way are exempt from this requirement.
4. Entries for parking within a parking structure should be placed along a secondary thoroughfare or alley, where practicable.
5. Any parking structure that is located in and that has direct frontage on a public right-of-way, or that has direct frontage on the opposite side of the public right-of-way and that is within 150' of, an N-1D, N-1C, N-1S, N-2C, N-2E, N-3C, or N-3E zone, must be designed so that at least 75% of the linear width of the ground floor front and corner side facades, measured from building corner to building corner and excluding pedestrian and vehicular entries, is designed for commercial tenant spaces. Each commercial tenant space must have a minimum depth of 35 feet, measured from the front facade. Parking structures located more than 150 feet from a public right-of-way are exempt from this requirement.

**B. Parking structures must provide for a vehicular clear sight zone as follows:**

1. The portion of the facade that includes the vehicle exit area, plus eight feet on either side, must be set back from the adjacent right-of-way line a minimum of eight feet.



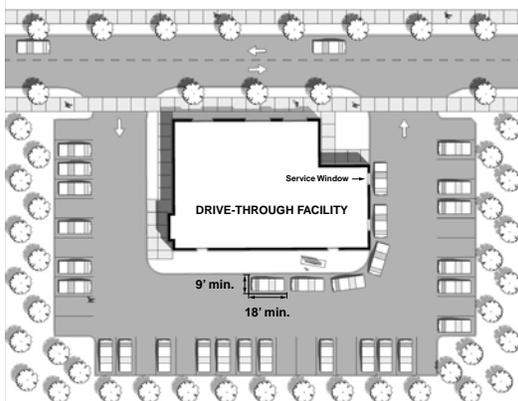
2. In the sight triangle, defined as the area bound by the parking structure wall, sidewalk, and driveway; landscape or a solid masonry wall, a maximum of three feet in height, must be included to act as a buffer between the driveway and sidewalk.
3. The upper story facades of the parking structure may overhang the vehicular clear sight zone.

### 8.3.5 Mechanical Access Parking

- A. Mechanical access parking within fully-enclosed structures is permitted in all zones.
- B. Mechanical access parking within parking lots is allowed only in the N-1C, N-1S, D-M, D-S, D-C, D-IL, and D-IH zones.

### 8.3.6 Stacking Spaces

- A. Any development that involves a drive-through facility, as defined in Section 6.1.5.I, must provide stacking spaces in accordance with this section.
- B. Stacking lanes must have a minimum width of nine feet.
- C. At least three stacking spaces, each a minimum depth of 18 feet, measured from the window, ATM, or entrance of washing bay, must be provided for each stacking lane. In the case of a drive-through restaurant, at least five such stacking spaces must be provided for each stacking lane.
- D. Stacking lanes must not be designed so as to cause queued vehicles to encroach upon or interfere with the use of the adjacent public right-of-way.



### 8.3.7 Loading Areas

- A. Any development that involves new construction of a principal building of at least 50,000 square feet in gross floor area and that is expected to regularly handle materials or merchandise carried by vehicles rated by the Federal Highway Administration as “heavy duty” (i.e., Class 7 or higher and with a gross trailer weight rating of over 26,000 lbs.), must provide off-street loading facilities. This requirement does not apply if an applicant shows, with a letter of concurrence from the Commissioner of Public Works, Parks, and Streets, that on-street loading facilities are adequate.
- B. Loading areas must comply with the following criteria:
  1. Loading areas must be separated from pedestrian facilities.
  2. No loading berth may be located on a front facade, and no loading area may be located in a front yard, except in the D-IL and D-IH zones.
  3. Loading and unloading activity may not encroach upon any public right-of-way, except where specifically designated by the Commissioner of Public Works, Parks, and Streets.
  4. All loading berths must be signed to indicate “No Idling.”
  5. Where any loading area is located along, within 50 feet of, and visible from a public right-of-way other than an alley, the loading area must be screened by a Type D buffer yard, designed per Section 7.1.6. This does not apply in the D-IL or D-IH zones.
  6. Where any loading area is located within 50 feet of, and visible from, an interior side or rear lot line that abuts any lot in an N-2R, N-3R, N-4-30, N-4-50, D-OS, D-OG, or D-ON zone, the loading area must be screened by a Type C buffer yard, designed per Section 7.1.6.

### 8.3.8 Commercial and Recreational Vehicles

#### A. General

1. No recreational or commercial vehicle may be occupied or used for human habitation.
2. Fixed connections from recreational or commercial vehicles to electricity, water, gas, or sanitary sewer facilities are prohibited.

**B. Commercial Vehicles.** The storage of commercial vehicles, defined as any vehicle over 10,000 pounds in gross weight, exceeding 20 feet in length and/or seven and one-half feet in width, 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, must meet the following criteria:

1. No commercial vehicle may be stored on a property used for residential purposes, except for temporary loading, unloading, or service activities not exceeding six hours in any given day. This restriction does not apply in the N-1D, N-1C, or N-1S zones, so long as such vehicles are stored in locations that are not visible from a public right-of-way other than an alley.
2. Commercial vehicles may be permanently stored outdoors only in the D-IL and D-IH zones, and in the D-C and N-1S zones if not visible from a public right-of-way other than an alley. Commercial vehicles may be parked within a permanent, fully-enclosed structure, so long as the property is not used for a residential purpose.
3. Any permanent outdoor storage of commercial vehicles must comply with the standards for a storage yard, per Section 6.1.6.H.

**C. Recreational Vehicles.** The storage on residential properties of recreational vehicles, defined as any vehicle used exclusively for noncommercial purposes which are primarily designed for sport or recreational use, or which is designed

for human occupancy on an intermittent basis, including boats, trailers for boats, motor homes, vacation trailers or campers, and off-road or all-terrain vehicles, must meet the following criteria:

1. The recreational vehicle equipment must be kept in good repair and carry a current license and registration.
2. No recreational vehicle may be stored so as to create a dangerous or unsafe condition, defined as the risk of the tipping or rolling of a recreational vehicle.
3. A recreational vehicle, or trailer licensed to transport recreational vehicles or equipment, may be parked outdoors in a driveway for no more than 72 hours.
4. No recreational vehicle may be stored outdoors in a front or corner side yard.
5. No more than two recreational vehicles may be stored outdoors at any given time. There is no limit on the number of recreational vehicles that may be parked within a permanent, fully-enclosed structure.

## 8.4 TRANSPORTATION DEMAND MANAGEMENT

### 8.4.1 General

- A.** A transportation demand management (TDM) plan must be prepared for certain development projects, as follows:
  - 1.** A TDM plan is required for new construction of a principal building in excess of 5,000 square feet.
  - 2.** A TDM plan is required for substantial renovation of a principal building with a gross floor area of at least 50,000 square feet and involving a change of use.
  - 3.** A TDM plan is not required for single-unit dwellings, double-unit dwellings, or any project in a D-C, D-IL, or D-IH zone, irrespective of the above requirements.
- B.** A TDM plan must be reviewed and approved, approved with modifications, or disapproved by the City Planning Board as part of major site plan review per Section 11.3.7. No building permit or certificate of occupancy may be granted prior to approval of a required TDM plan.

### 8.4.2 TDM Plan

#### A. TDM Plan Requirements

- 1.** A TDM plan must be consistent with a TDM Guide adopted by the City Planning Board.
- 2.** A TDM plan must be prepared by a qualified professional with demonstrated experience in transportation planning, traffic engineering, or comparable field.
- 3.** A TDM plan must determine:
  - a.** The anticipated travel demand for the project.
  - b.** How the anticipated travel demand for the project will be met on-site or off-site, including:
    - i.** Number of on-street vehicle parking spaces, off-street vehicle parking

spaces, or shared vehicle parking arrangements.

- ii.** Number of short-term and long-term bicycle parking spaces.
  - iii.** Accommodations for pedestrians, cyclists, motorists, transit riders, and the mobility-impaired.
- c.** The strategies that will be employed to reduce single-occupancy vehicle trips, reduce vehicle miles travelled by site users, and promote transportation alternatives such as walking, cycling, ridesharing, and transit.
  - d.** The modal share objectives that will be sought from the implementation of TDM strategies.
- B. TDM Strategies.** TDM strategies may include, but are not limited to, the following:
  - 1.** Walking, cycling, ridesharing, and transit promotion and education.
  - 2.** Parking cash-out programs or unbundled parking/market rate pricing.
  - 3.** Shared parking arrangements.
  - 4.** Enhanced bicycle parking and services (above the minimum required).
  - 5.** Support for car-share and bike-share services and facilities.
  - 6.** Carpooling or vanpooling programs or benefits.
  - 7.** Free or subsidized transit passes, transit-to-work shuttles, or enhanced transit facilities (such as bus shelters).
  - 8.** Guaranteed ride home (GRH) programs.
  - 9.** Provision for alternative work schedules (i.e., flextime, compressed work week, staggered shifts, telecommuting).
  - 10.** Promotion of “live near your work” programs.

11. Roadway improvements adjacent to the site that will help encourage transportation alternatives.
  12. Designation of an on-site employee and/or resident transportation coordinator.
  13. Membership in a Transportation Management Association (TMA).
- C. TDM Performance Standards.** In making its decision, the City Planning Board must make written findings of fact on the following matters:
1. The project includes performance objectives to minimize single-occupancy vehicle trips and maximize the utilization of transportation alternatives to the extent practicable, taking into account the opportunities and constraints of the site and the nature of the development.
  2. The project must meet the anticipated transportation demand without placing an unreasonable burden on public infrastructure, such as transit and on-street parking facilities, and the surrounding neighborhood.

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# Article 9. Signs

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## 9.1 GENERAL

All new, reconstructed, altered, or relocated signs must comply with the standards of this section.

### 9.1.1 Sign Permit

- A.** All sign types described in Sections 9.2 and 9.3 require a sign permit per Section 11.3.9 before they may be constructed, reconstructed, altered, or relocated. Signs described in Section 9.4 do not require a sign permit, but must follow applicable standards.
- B.** The following alteration and maintenance activities do not require a sign permit:
  - 1.** Painting, cleaning, or other normal maintenance and repair of a sign, provided that no change is made to any structural or electronic component of the sign.
  - 2.** Changing permitted items of information, the message of an existing changeable or electronic message component of a sign, or the sign face within an existing sign structure, provided that no change is made to any structural or electronic component of the sign.
- C.** Any sign that encroaches upon or over a public right-of-way requires an encroachment permit per Section 11.4.1.

### 9.1.2 Location

- A.** Each sign, with the exception of off-premise signs erected in conformance with Section 9.3, must be located on the same site as the subject of the sign.
- B.** A sign may be erected on private property only with the written permission of the property owner.
- C.** No sign, other than signs placed by agencies of government with appropriate jurisdiction, or a sign whose placement is authorized by such agencies, may be erected or placed on public property.
- D.** No sign may be installed in a way that obstructs free and clear vision, or free use, of any public right-of-way, intersection, ingress or egress point,

transit stop, parking space, drive aisle, driveway, building entrance, fire escape, standpipe, or accessibility ramp.

- E.** No sign may be placed so as to obstruct any window or door, with the exception of window signs per Section 9.4.1.X.
- F.** Signs must not be located so that they cover architectural features of the building, including, but not limited to, transoms, insignias, or any other architectural feature.

### 9.1.3 Construction

All signs must be erected in compliance with building, electrical, and fire codes, and with the following requirements as applicable:

- A.** Supports and braces must be designed as an integral part of the overall sign structure and hidden from public view to the extent technically feasible.
- B.** All signs attached to a building must be installed and maintained so that wall penetrations are watertight and do not exceed allowable stresses of supporting materials.
- C.** When a building-mounted sign is removed, the wall must be repaired and restored to its original condition prior to sign installation.
- D.** All signs and their supporting structures must be enclosed so as to prevent inhabitation by birds, rodents, insects, and other wildlife.
- E.** All signs must be designed and constructed to withstand wind loads, dead loads, and snow loads as required by the New York State Fire Prevention and Building Code.
- F.** Materials for signs must be durable and capable of withstanding weathering over the life of the sign with reasonable maintenance. Glass forming any part of a sign, with the exception of exposed lamps, must be safety glass.
- G.** Signs constructed of fabric or fabric-like material must be held taut within frames. This requirement does not apply to exempt signs per Section 9.4.

- H.** Audio components are prohibited as part of any sign, with the exception of drive-through menu boards per Section 9.4.1.L.
  - I.** If a raceway is necessary, it must not extend in width or height beyond the area of the sign. A raceway must be finished to match the background surface to which it is attached, or integrated into the overall design of the sign.
  - J.** Conduits and other electrical components must be designed as an integral part of the overall sign structure and hidden from view to the extent technically feasible. Visible transformers are prohibited.
  - K.** All electrical fixtures, devices, circuits, conduits, raceways, or any apparatus used to illuminate any sign must be installed and maintained in compliance with the National Electric Code (NEC). A Nationally Recognized Testing Laboratory (NRTL) listing label number must be provided for any sign with electrical components.
- 2.** If a sign advertises products or services, each product or service, including multi-word, is considered one item of information. Where multiple products are identified on a menu board or sidewalk sign, the list of products is considered one item of information.
  - 3.** A sign used to identify the tenants within a multi-tenant, non-residential development is limited to one item of information per tenant within the development, in addition to the name and address of the development. Therefore, such signs may exceed six items of information.
  - 4.** The message area of a changeable or electronic message display, on which information is changed manually or digitally, is counted as one item of information.
  - 5.** The items of information limitation does not apply to heritage signs per Section 9.1.7 or exempt signs per Section 9.4.

#### 9.1.4 Sign Copy

- A. On-Premise Copy.** All sign copy must relate only to the name or nature of the business or establishment on the site. This does not apply to non-commercial messages or permitted off-premise signs.
- B. Street Address.** The Commissioner of Permit and Inspection Services may require a sign to include the street address number of the site, where it is determined that public safety and emergency vehicle response would be more effectively served.
- C. Items of Information.** Items of information are limited to six items per sign face. Items of information are calculated as follows:
  - 1.** Each piece of information on a sign is defined as an item of information. For example, each of the following is defined as one item of information: establishment name, logo, telephone number, website address, or product or service. A street address number, if included in the sign copy, is not counted as an item of information.

#### 9.1.5 Illumination

- A.** Table 9A: Sign Illumination identifies the type of sign illumination allowed by zone. The key for the sign illumination table is as follows:
  - 1.** Permitted (●) indicates that the type of sign illumination is permitted by right in the zone.
  - 2.** Special Use (◐) indicates that the type of sign illumination requires a special use permit.
  - 3.** If a cell is blank, this indicates that the type of sign illumination is not permitted in the zone.
- B.** Each type of sign illumination must comply with the following standards:
  - 1. External Illumination**
    - a.** An externally illuminated sign is characterized by the use of artificial light reflecting off its surface.
    - b.** External light sources intended to illuminate the sign face must be fully shielded and placed close to, and directed upon, the sign face.

TABLE 9A: SIGN ILLUMINATION

	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	
External Illumination	●	●	●	●	●		●	●				●	●	●	●	●	●	●	●	●	●		●
Internal Illumination	●	●	●	●	●		●	●					●	●	●	●	●	●	●	●			
Direct Illumination	●	●	●	●	●		●	●					●	●	●	●	●	●	●	●			
Electronic Message Center (EMC) <sup>1</sup>	◐	◐	◐									◐	◐	●	●	●	●	●					

1. A civic use may install a sign with an EMC in any zone, except for the N-2R, N-3R, N-4-30, N-4-50, D-OS, D-OG, or D-ON zone, with a special use permit.

- c.** Any light sources intended to illuminate surfaces behind a sign to produce a halo effect must be fully concealed from view.
- 2. Internal Illumination**
- a.** An internally illuminated sign is characterized by the use of artificial light projecting through its surface.
  - b.** Internal illumination is limited to letters, numbers, symbols, and accents. No more than 50% of the total sign area may be internally illuminated, measured by the smallest rectangles that can fully enclose the internally illuminated elements. The remaining area of the sign face must remain opaque. This limitation does not apply to the D-M, D-E, D-S, D-C, D-IL, and D-IH zones, where any percentage of the sign face may be internally illuminated.
  - c.** All lamps intended for internal illumination must be fully concealed from view.
- 3. Direct Illumination**
- a.** A directly illuminated sign is characterized by the use of exposed lamps, such as neon tubes or incandescent bulbs, that have no shielding and are visible to the eye.
  - b.** Direct illumination is limited to letters, numbers, symbols, and accents.
  - c.** In only the N-1D, N-1C, N-1S, N-2C, N-3C, D-S, D-C, D-IL, and D-IH zones, exposed lamps may be animated to create an effect of patterned illusionary movement, so long as the alternate or sequential activation of illuminated elements occurs on a cycle that exceeds two seconds. No more than one such sign is permitted per establishment.
- 4. Electronic Message Centers (EMC)**
- a.** An electronic message center (EMC) is an electrically activated display whose variable message and/or graphic presentation capability can be electronically programmed.
  - b.** Each electronic message that is displayed must be static and depicted for a minimum of five minutes before changing. Any change in an electronic message must be instantaneous, without scrolling, fading in, dropping in, or similar moving copy changes. The following are exceptions to these restrictions:
    - i.** A building-mounted sign in an N-1D, N-1C, or N-1S zone that conveys time, temperature, stock market quotations, or other information of a

noncommercial nature is exempt from these restrictions, provided that the sign does not exceed 18 inches in projection from the building wall.

- ii. Each electronic message that is displayed on an off-premise sign must be static and depicted for a minimum of eight seconds before changing. Any scrolling, fading in, dropping in, or similar moving copy changes are prohibited.
- c. No sign that displays electronic messages may be located within 200 feet of any N-2R, N-3R, N-4-30, N-4-50, D-OG, D-ON, or C-W zone.
- d. Any electronic message sign that is malfunctioning must be turned off.

#### C. Light Intensity

1. The luminance of any sign must not exceed 5,000 nits during daylight hours, and 280 nits between dusk and dawn. Dusk and dawn are defined as, respectively, the time starting at one-half hour before apparent sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA), for Buffalo for the particular date; and the time starting at one-half hour after apparent sunrise, as determined by the NOAA, for Buffalo for the particular date.
2. A sign that is designed to emit a luminance level exceeding 280 nits must have an automatic dimmer control that produces a distinct illumination change from a higher to a lower level for the time period between dusk and dawn.

#### D. Public Safety

1. No direct or reflected light from the primary light source of a sign may create hazards for pedestrians, cyclists, or operators of motor vehicles.
2. Colored light must not be used at a location

or in a manner so as to be confused with or construed as traffic control devices.

3. Blinking, flashing, fluttering, strobe-light effects, and streaming video are prohibited, except in the Theatre District per Section 9.1.11.

#### 9.1.6 Maintenance

- A. Signs and sign structures, together with their supports, braces, guy wires, anchors, and electrical components, must be maintained in a proper state of repair. Any damage to or deterioration of a sign must be repaired immediately or within 30 days of receipt of notice from the Commissioner of Permit and Inspection Services.
- B. When an existing sign is removed, replaced, or repaired, all brackets, poles, wiring, and other supporting hardware that are no longer required must be removed, and any surfaces to which the sign may have been attached must be repaired or painted, immediately or within 30 days of receipt of notice from the Commissioner of Permit and Inspection Services.
- C. All signs integral to a structure and announcing the building's original or historic name, year of construction, or architect, or containing identifying insignias, must be maintained, and may not be removed, altered, or covered. In cases where the original sign is in too poor of condition to repair or reuse, close replication of the original sign with a new sign is encouraged.
- D. Where a sign is totally or partially illegible, where sign copy has been removed, or when an establishment to which the sign pertains has been discontinued for three or more months, the sign must be repaired, reused, or removed immediately or within 30 days of receipt of notice from the Commissioner of Permit and Inspection Services. If the property owner fails to repair, reuse, or remove the sign within the timeframe established by the Commissioner of Permit and Inspection Services, the sign may be removed by the City at the property owner's expense.

- E. If a sign is in an unsafe or non-secure condition, the sign must be repaired or removed immediately or within three days of receipt of notice from the Commissioner of Permit and Inspection Services. The Commissioner of Permit and Inspection Services may remove any sign that is an immediate peril to persons or property summarily, without notice, and at the property owner's expense.

**9.1.7 Heritage Signs**

- A. A sign having historical significance, and which advertises an establishment or product no longer in existence or a product no longer being offered on the site, may be designated a heritage sign. A heritage sign may be maintained, repaired, reconstructed, and/or relocated, so long as no new items of information, sign features, or sign area are added to the sign.
- B. In order for a sign to be designated a heritage sign, the Preservation Board must make written findings that the sign is at least 25 years old, or is an exact replica of an original sign where the combined age of the duplicate and original signs is at least 25 years, and meets at least one of the following criteria:
  1. The sign has historic character, interest, or value as part of the development, heritage, or cultural characteristics of the City.
  2. The sign is significant as evidence of the history of the product, business, or service advertised.
  3. The sign embodies elements of design, detailing, materials, or craftsmanship that make it significant or innovative.
  4. The sign has a unique location or contains singular physical characteristics that make it an established or familiar visual feature within the City.
- C. The Commissioner of Permit and Inspection Services must maintain and make available a list of designated heritage signs.

**9.1.8 Prohibited Signs**

The below listed signs, as well as any sign type not expressly allowed by this Ordinance, are prohibited:

- A. Abandoned or illegally erected signs.
- B. Mechanically activated signs, other than barber poles and clocks.
- C. Signs or devices motivated by wind, thermal changes, or other environmental input, such as spinners, pinwheels, balloons, air-inflated signs, or other devices or displays that respond to naturally or artificially induced external motivation, except for flags erected in conformance with Section 9.4.1.G.
- D. Signs on motor vehicles that are inoperable, do not display a current vehicle inspection sticker or license plate, are not principally used as a mode of transportation for business purposes, and/or are conspicuously parked or located on a lot for more than 24 hours to advertise a product or service, or to direct the public to a business or activity located on or off the premises.
- E. Signs that are burned, cut, painted, pasted, or otherwise marked on or affixed to a rock, tree, standpipe, fire escape, utility pole, trash receptacle, bench, or any other unapproved structure or surface.
- F. Signs painted directly on a building, except for heritage signs per Section 9.1.7 and supplemental wall signs per Section 9.2.13.
- G. Signs that simulate in color, size, or design, any traffic control sign or signal, or that make use of words, symbols, or characters in a manner that may interfere with, mislead, or confuse pedestrian, cyclist, or vehicular traffic.
- H. Temporary off-premise signs.

**9.1.9 Nonconforming Signs**

A nonconforming sign that was lawfully established and maintained in compliance with the provisions of all applicable laws in effect at the time of original installation, but that does not now comply with the provisions of this Ordinance, may

be repaired, altered, or relocated in accordance with Section 12.1.5.

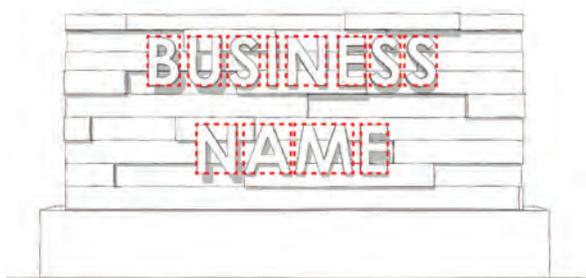
**9.1.10 Sign Measurement**

**A. Sign Area.** Sign area is measured as the total area of a sign, as follows:

1. For signs on a background, the entire area of the framework or background of the sign is calculated as sign area, including any material or color forming the sign face or background used to differentiate the sign from the structure against which it is placed.



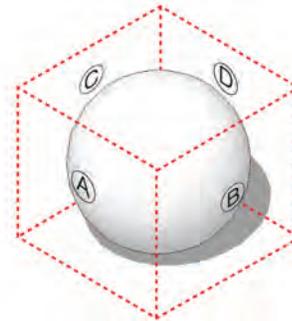
2. For signs consisting of freestanding letters or features, the sign area is calculated as the total area of each rectangle that encompasses each individual letter or feature. Sign area does not include any supporting framework or bracing, unless such framework or bracing is part of the message or sign face.



3. Window signs printed on a transparent film and affixed to the interior or exterior of a windowpane are calculated as individual letters or features, provided that the portion of the film around the individual letters or features is fully transparent.

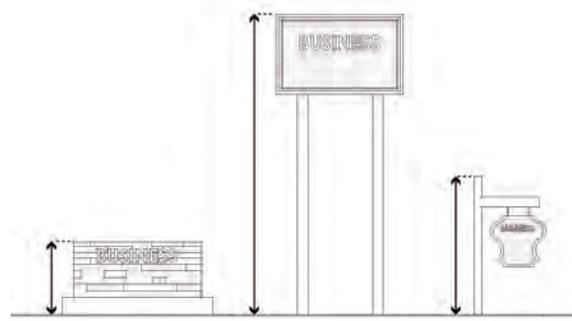


4. The sign area of a three-dimensional, free-form or sculptural (non-planar) sign is calculated as 50% of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign.



5. If a sign has two or more faces, the area of all faces is included in determining the area of the sign, unless the two sign faces are placed back to back and are no more than two feet apart. In such case, the sign area is calculated as the area of one face. If the two faces are unequal in area, the area of the larger face is used to calculate sign area.

**B. Sign Height.** Sign height is measured as the vertical distance from the base of a sign or sign structure, to the highest point of the sign or sign structure.



- C. **Vertical Clearance.** For signs attached to a structure, vertical clearance is measured as the vertical distance from the sidewalk level to the lowest point of the sign.



### 9.1.11 Theatre Historic District Special Standards

Any new, reconstructed, altered, or relocated sign in the Theatre Historic District must comply with the below standards. These standards are established to preserve, protect, and enhance the character of the Theatre Historic District as a cultural, theatrical, and entertainment showcase. Except as modified by express provisions of this section, any other regulations of this Ordinance remain in effect.

- A. An on-premise sign may be erected in the Theatre Historic District of any area or height, regardless of any contrary provisions of this Ordinance.
- B. All signs, with the exception of exempt signs per Section 9.4, must be illuminated by means of internal illumination, direct illumination, an electronic message center (EMC), or combination thereof. Such signs must at minimum remain lit from dusk until 1:00 a.m. daily.
- C. Signs which are in excess of 35 square feet in area, and located at a height of eight feet or more above curb level, must have a minimum of 20% of its surface area continuously electrically animated either by means of flashing borders, writing, pictorial representations, emblems, or other figures of similar character, or by means of a flashing surface area serving as a sign background. Such signs are exempt from standards regarding dwell time described in Section 9.1.5.B.

## 9.2 ON-PREMISE SIGNS

An on-premise sign is a sign erected, maintained, or used for the purpose of the display of messages relating to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

### 9.2.1 Sign Types

- A. **Table 9B: Sign Types** identifies on-premise signs allowed by zone, with cross-references to definitions and standards that apply. The key for the sign types table is as follows:
  - 1. Permitted (●) indicates that the sign type is permitted by right in the zone.
  - 2. If a cell is blank, this indicates that the sign type is not permitted in the zone.
- B. **Number of Signs.** A maximum of two on-premise signs per establishment is permitted per right-of-way frontage, subject to the following additional considerations:
  - 1. Heritage signs, sidewalk signs, and exempt signs do not count toward the maximum number of permitted on-premise signs.
  - 2. An on-premise sign advertising multiple tenants is calculated toward the maximum number of signs per establishment per right-of-way frontage for each tenant that is identified in the multiple tenant sign.
- C. **Total Sign Area.** The total area of on-premise signs that are installed per establishment per right-of-way frontage may not exceed the maximum allowed in the zone per Table 9C: Total Sign Area, subject to the following additional considerations:
  - 1. The area of heritage signs, sidewalk signs, and exempt signs is not counted toward the total on-premise sign area.
  - 2. When an on-premise roof sign or skyline sign is installed, an additional 10% of maximum sign area per additional story above the first ten stories is allocated.
  - 3. An on-premise sign positioned at a right-of-way intersection and intended to be viewed from both rights-of-way will count half its sign area toward the maximum permitted sign area for each right-of-way frontage; for example, a 12 square foot blade sign

TABLE 9B: SIGN TYPES

	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	
Awning Sign <sup>1/2</sup>	●	●	●	●	●		●	●				●	●	●	●	●	●	●	●	●	●	●	●	Section 9.2.2
Blade Sign <sup>2</sup>	●	●	●	●	●		●	●				●	●	●	●	●	●	●	●	●	●	●	●	Section 9.2.3
Canopy Sign <sup>1/2</sup>	●	●	●	●	●		●	●				●	●	●	●	●	●	●	●	●	●	●	●	Section 9.2.4
Iconic Sign <sup>2</sup>	●	●	●	●	●		●	●				●	●	●	●	●	●	●	●	●	●	●	●	Section 9.2.5
Marquee Sign	●	●	●	●			●						●	●	●	●	●	●					●	Section 9.2.6
Monument Sign <sup>1</sup>	●	●	●	●	●		●	●				●	●	●	●	●	●	●	●	●	●	●	●	Section 9.2.7
Pole Sign			●										●	●	●	●	●	●					●	Section 9.2.8
Porch Sign	●	●	●	●	●		●	●				●	●	●					●	●	●	●	●	Section 9.2.9
Roof Sign	●	●	●	●			●						●	●	●	●	●	●	●				●	Section 9.2.10
Sidewalk Sign <sup>1/2</sup>	●	●	●	●	●		●	●				●	●	●	●	●	●	●	●	●	●	●	●	Section 9.2.11
Skyline Sign	●	●	●										●	●			●	●						Section 9.2.12
Wall Sign <sup>1/2</sup>	●	●	●	●	●		●	●				●	●	●	●	●	●	●	●	●	●	●	●	Section 9.2.13
Yard Sign <sup>1</sup>	●	●	●	●	●		●	●				●	●	●	●	●	●	●	●	●	●	●	●	Section 9.2.14

1. A civic use may install an awning sign, canopy sign, monument sign, sidewalk sign, wall sign, or yard sign on any lot in the N-2R, N-3R, N-4-30, and N-4-50 zones, subject to the additional requirements of this article.

2. A duly approved or legal nonconforming commercial establishment may install an awning sign, blade sign, canopy sign, iconic sign, porch sign, sidewalk sign, or wall sign in the N-2R or N-3R zone, subject to the additional requirements of this article.

installed at an angle on the corner of a building, and intended to be viewed from two rights-of-way, will have six square feet counted toward the maximum permitted area for each right-of-way frontage.

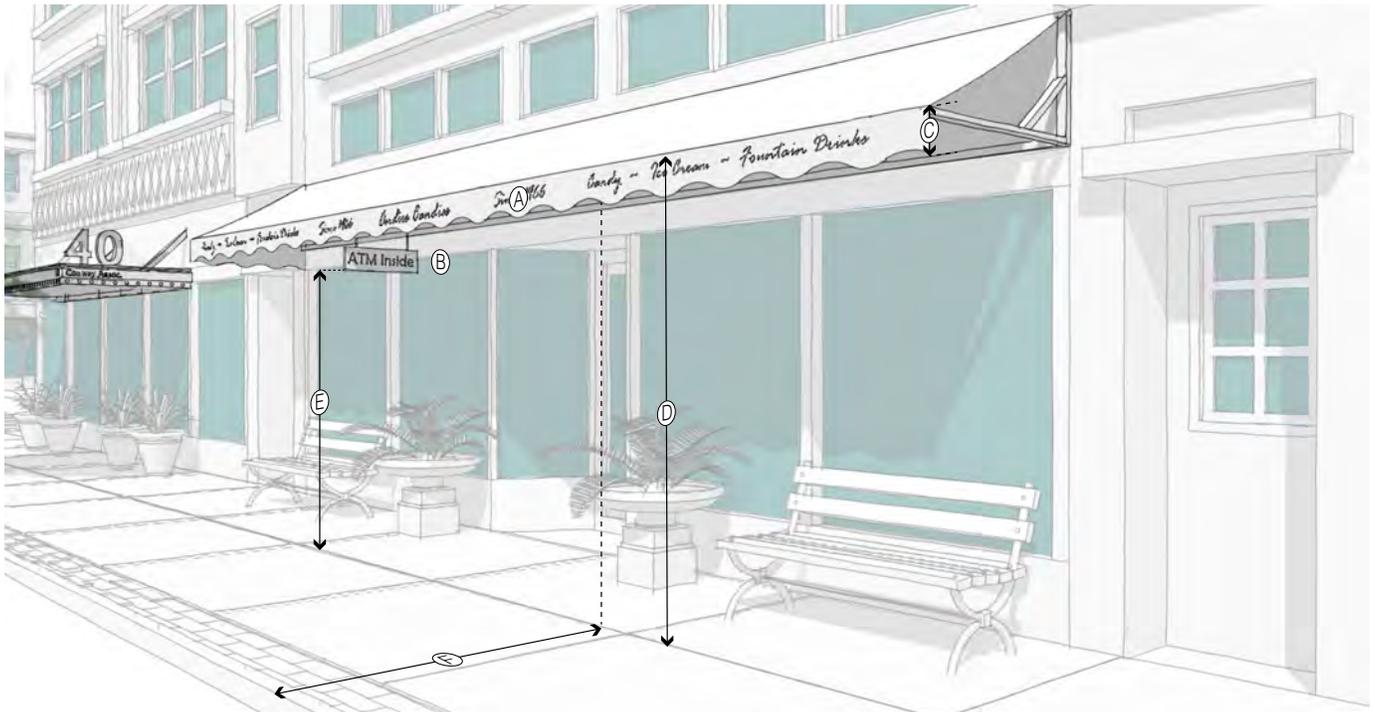
4. The area of an on-premise sign advertising multiple tenants is calculated the same as a sign that advertises only one establishment. The area devoted to an individual establishment in a multiple tenant sign is counted toward the total sign area allocated for the establishment.
5. The area of an on-premise sign may not exceed 35 square feet when such sign is located within 150 feet of an N-2C, N-2E, N-2R, N-3C, N-3E N-3R, N-4-30, N-4-50, D-R, D-OG, or D-ON zone, regardless of the zone in which the sign is located.

6. A civic use may install signs totaling a maximum of 35 square feet of sign area per right-of-way frontage in the N-2R, N-3R, N-4-30, N-4-50, D-R, D-OG, or D-ON zones.

TABLE 9C: TOTAL SIGN AREA

ZONE	TOTAL SIGN AREA PER ESTABLISHMENT PER ROW FRONTAGE
N-1D, N-1C, N-1S	175 SF
N-2C, N-2E, N-3C, N-3E, D-OS, C-R	35 SF
N-2R, N-3R, N-4-30, N-4-50, D-R, D-OG, D-ON	12 SF
D-M, D-E, D-S, D-C	200 SF
D-IL, D-IH	350 SF

## 9.2.2 Awning Sign



### Description

An awning sign is a sign printed on any of the surfaces of an awning, and which may include an under-awning sign attached to and mounted under the awning.

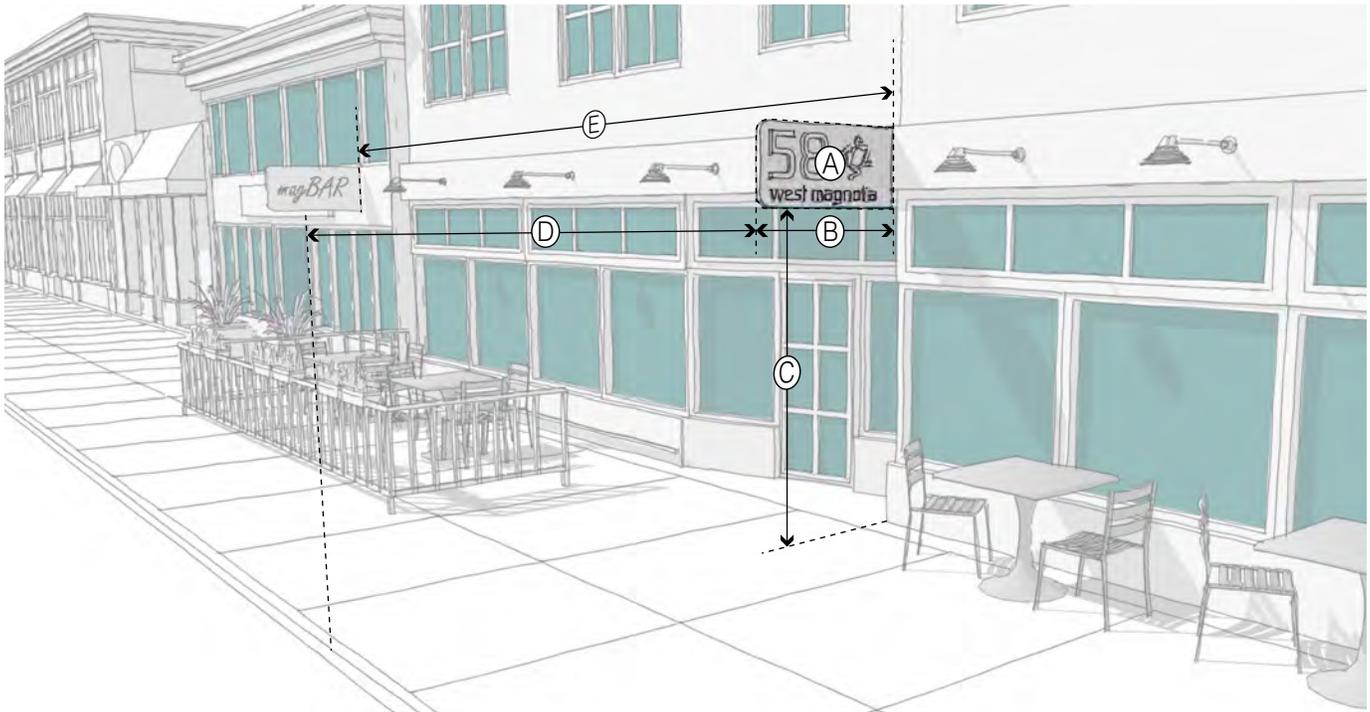
### Dimensions

(A)	Area, awning sign (max)	25% of each awning surface
(B)	Area, under-awning sign (max)	4 SF
(C)	Valance height (max)	0.5'
(D)	Vertical clearance from sidewalk level, awning sign, not including valance (min)	7.5'
(E)	Vertical clearance from sidewalk level, under-awning sign (min)	7'
(F)	Setback from curb line (min)	18"

### Specific Standards

1. A maximum of one awning sign is permitted per awning surface. Only awnings on the ground story may contain signs.
2. Internally illuminated or back-lit awning signs are prohibited, except in the D-S, D-C, D-IL, and D-IH zones.
3. A maximum of one under-awning sign is permitted per establishment with a ground-floor main entrance. An under-awning sign must be securely fixed to the underside of the awning with metal attachments, may not project beyond the awning, and may not be illuminated.

## 9.2.3 Blade Sign



### Description

A blade sign is a two-sided sign that projects outward from the exterior wall of a structure.

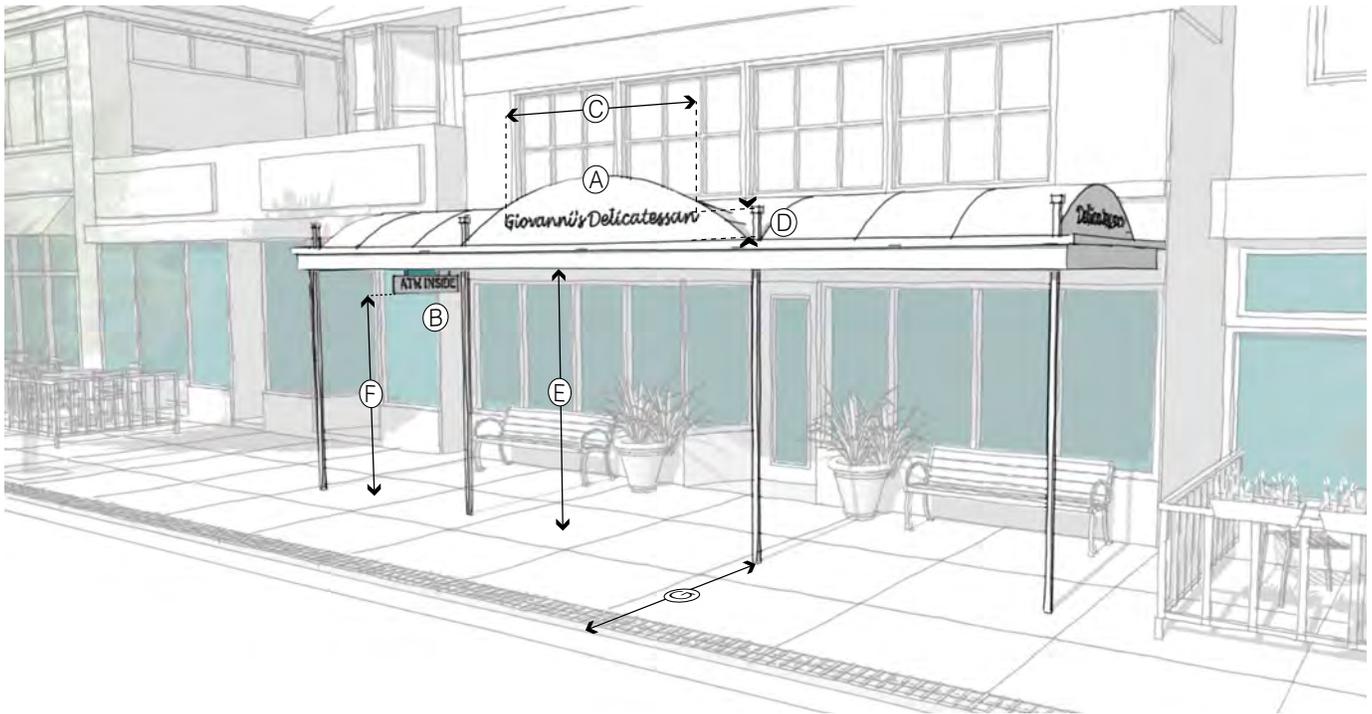
### Dimensions

Ⓐ	Area (max per side)	Refer to Table 9C
Ⓑ	Projection from wall (max, including supports)	
	N-1D, N-1C, N-1S, D-M, D-E, D-S, D-C, D-IL, D-IH	8'
	All other zones where permitted	5'
Ⓒ	Vertical clearance from sidewalk level (min)	7.5'
Ⓓ	Setback from curb line (min)	18"
Ⓔ	Distance between blade signs (min)	15'

### Specific Standards

1. A maximum of one blade sign is permitted per establishment per right-of-way frontage. Only establishments with a ground-floor main entrance may have a blade sign.
2. The base of a blade sign must be placed below the finished level of the second story or, in the case of a one-story building, at least two feet below the highest peak of the roof. No portion of a blade sign may extend more than ten feet above the roof line or parapet wall of a building with a flat roof, or more than ten feet above the lower eave of a building with a pitched roof.
3. A blade sign which is suspended to allow the sign to swing due to wind action may not exceed six square feet in area.

## 9.2.4 Canopy Sign



### Description

A canopy sign is a sign attached above, below, or to the face of a canopy, and which may include an under-canopy sign attached to and mounted under the canopy.

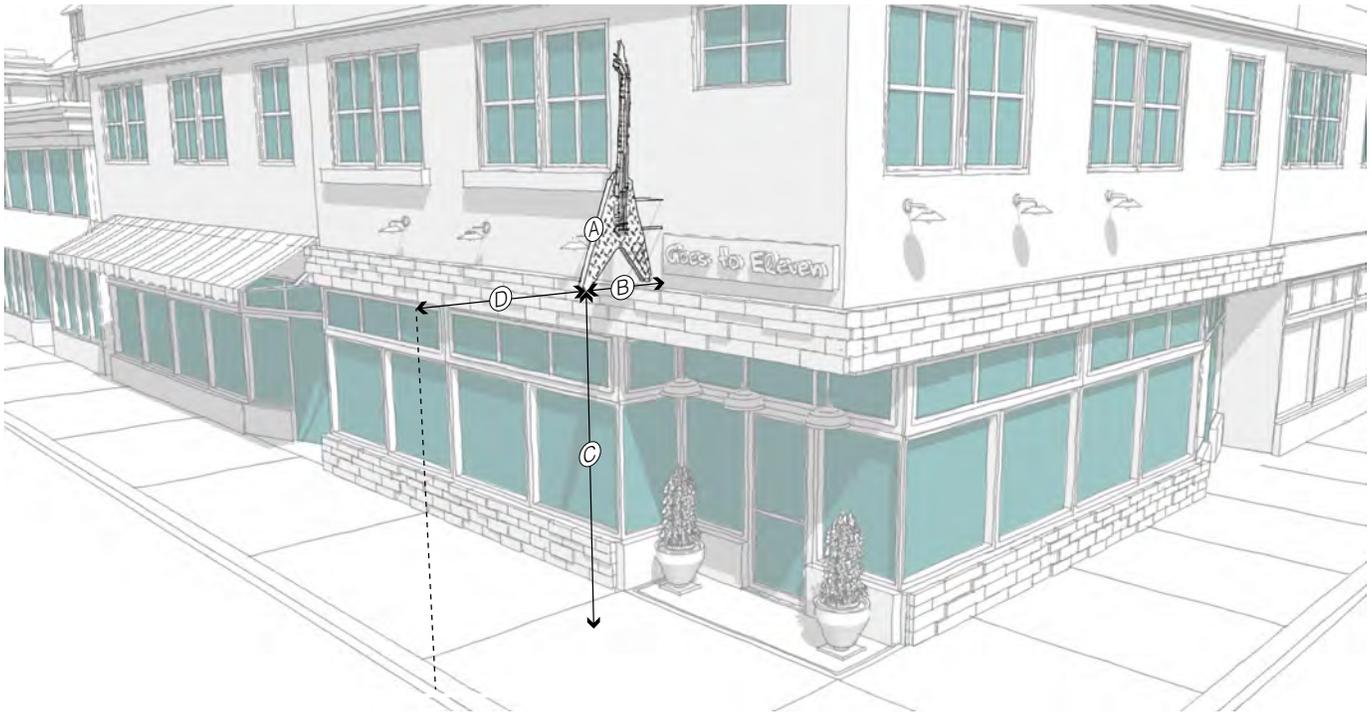
### Specific Standards

1. A maximum of one canopy sign is permitted per establishment per right-of-way frontage.
2. A maximum of one under-canopy sign is permitted per establishment with a ground-floor main entrance. An under-canopy sign must be securely fixed to the underside of the canopy with metal attachments, may not project beyond the canopy, and may not be illuminated.

### Dimensions

(A)	Area, canopy sign (max)	25% of each canopy surface
(B)	Area, under-canopy sign (max)	4 SF
(C)	Letter/number/logo width above canopy (max)	75% of canopy width
(D)	Letter/number/logo height above canopy (max)	2'
(E)	Vertical clearance from sidewalk level, canopy sign (min)	7.5'
(F)	Vertical clearance from sidewalk level, under-canopy sign (min)	7'
(G)	Setback from curb line (min)	18"

## 9.2.5 Iconic Sign



### Description

An iconic sign is a sculptural, typically three-dimensional sign whose form suggests its meaning, and which can either be building-mounted or freestanding.

### Dimensions

(A)	Area (max per side)	Refer to Table 9C
(B)	Projection from wall (max, including supports)	5'
(C)	Vertical clearance from sidewalk level (min)	7.5'
(D)	Setback from curb line (min)	18"

### Specific Standards

1. A maximum of one iconic sign is permitted per establishment.
2. An iconic sign may contain only iconographical elements representing a product or service offered on site, and may not contain any other items of information.

## 9.2.6 Marquee Sign



### Description

A marquee sign is a sign attached to the top or the face of a permanent roof-like structure constructed over a ground-floor main entrance.

### Dimensions

(A)	Area (max)	Refer to Table 9C
(B)	Vertical clearance from sidewalk level (min/max)	12'
(C)	Setback from curb line (min)	18"

### Specific Standards

1. A maximum of one marquee sign is permitted per building. Only the following types of establishments may erect a marquee sign: assembly, large or small; cultural facility; school, college/university; hotel/hostel; amusement facility, indoor or outdoor; or live entertainment.
2. A marquee may be erected over a main entrance only, and may be no wider than the entrance over which it is erected, plus five feet on each side.
3. A marquee sign must be supported solely by the building to which it is attached. No exterior columns or posts are permitted as supports.

## 9.2.7 Monument Sign



### Description

A monument sign is a freestanding sign attached to a pedestal or perimeter wall.

### Dimensions

Ⓐ	Area (max)	Refer to Table 9C
Ⓑ	Height (max)	
	N-1D, N-1C, N-1S, D-M, D-E, D-S, D-C, D-IL, D-IH	10'
	All other zones where permitted	5'

### Specific Standards

1. A maximum of one monument sign is permitted per site per right-of-way frontage. A monument sign may be erected only on a site where the building is set back a minimum of 15 feet from the lot line.
2. An establishment may erect a monument sign along a right-of-way frontage only in lieu of a pole or yard sign.
3. No part of a monument sign may encroach upon a public right-of-way.
4. The sign must be attached to a pedestal that is integral to the sign structure, or be integral with a perimeter wall.
5. The width of the top of the sign structure may be no more than 125% of the width of the pedestal. If attached to a perimeter wall, the sign may not exceed 75% of the width of the face of the perimeter wall.

## 9.2.8 Pole Sign



### Description

A pole sign is a freestanding sign constructed on a structure of one or more poles.

### Dimensions

Ⓐ	Area (max)	Refer to Table 9C
Ⓑ	Height (max, including pole)	15'
Ⓒ	Vertical clearance from ground level (min/max)	7.5'

### Specific Standards

1. A maximum of one pole sign is permitted per site per right-of-way frontage. A pole sign may be erected only on a site where the building is set back a minimum of 15 feet from the lot line.
2. An establishment may erect a pole sign along a right-of-way frontage only in lieu of a monument or yard sign.
3. No part of a pole sign may encroach upon a public right-of-way or overhang a drive aisle, parking space, or walkway.

## 9.2.9 Porch Sign



### Description

A porch sign is a sign that is hung from the porch of a building and intended to be viewed from the sidewalk at close range.

### Specific Standards

1. A maximum of one porch sign is permitted per establishment per right-of-way frontage.

### Dimensions

(A)	Area (max per side)	12 SF
(B)	Width (max)	8'
(C)	Height (max, not including supports)	1.5'
(D)	Vertical clearance from porch floor (min)	7'

## 9.2.10 Roof Sign



### Description

A roof sign is a sign mounted on, and wholly supported by, the roof of a building.

### Dimensions

Ⓐ	Area (max)	Refer to Table 9C
Ⓑ	Width (max)	75% of roof level width
Ⓒ	Height (max, including supports)	
	N-1D, N-1C, N-1S, D-M, D-E, D-S, D-C, D-IL, D-IH	15'
	All other zones where permitted	7.5'

### Specific Standards

1. A maximum of one roof sign is permitted per building. A roof sign may be installed only on a flat roof.
2. If a roof sign is erected on a building, a skyline sign is prohibited.
3. Roof signs must be safely and securely attached to the roof structure and must not interfere with any roof access points.

## 9.2.11 Sidewalk Sign



### Description

A sidewalk sign is a two-sided, portable sign that is placed outside of an establishment, constructed in the form of an “A” or similar tent-like shape, or attached to a post with a heavy base, and intended to be viewed from the sidewalk at close range.

### Dimensions

(A)	Area (max per side)	10 SF
(B)	Height (min/max, total from sidewalk level)	3’/4’
(C)	Setback from curb line (min)	18”
(D)	Distance between sidewalk signs (min)	15’
(E)	Distance from main entrance (max)	15’

### Specific Standards

1. A maximum of one sidewalk sign is permitted per establishment per right-of-way frontage.
2. A sidewalk sign may be placed outdoors on the premises or a public sidewalk during business hours only, and must be stored indoors at all other times. The sign must not interfere with ingress and egress points and must maintain a minimum of five feet of sidewalk clearance at all times. The sign must be located within the frontage zone or furnishing zone of the sidewalk, per Section 10.2.2.B.
3. A sidewalk sign must be vertically oriented, with a height greater than its width.
4. A sidewalk sign may not be illuminated or contain any electronic components.
5. A sidewalk sign may not be placed outdoors when high winds, heavy rain, or heavy snow conditions are present. The Department of Public Works, Parks, and Streets may remove a sidewalk sign during snow removal operations, and is not liable for damage to a sidewalk sign caused by snow removal operations.

## 9.2.12 Skyline Sign



### Description

A sign attached flat to or mounted away from, but parallel to, the building facade, and located on the upper band of the building.

### Dimensions

(A)	Area (max)	Refer to Table 9C
(B)	Width (max)	75% of facade width
(C)	Height (max)	15'
(D)	Projection from wall (max)	5'

### Specific Standards

1. A maximum of one skyline sign is permitted per right-of-way frontage.
2. If a skyline sign is erected along a right-of-way frontage, a roof sign is prohibited.
3. No portion of a skyline sign may extend above the roofline or parapet wall of a building with a flat roof or, in the case of a building with a pitched roof, above the lower eave.

## 9.2.13 Wall Sign



### Description

A wall sign is a sign that is attached flat to or mounted away from, but parallel to, any exterior wall of a structure.

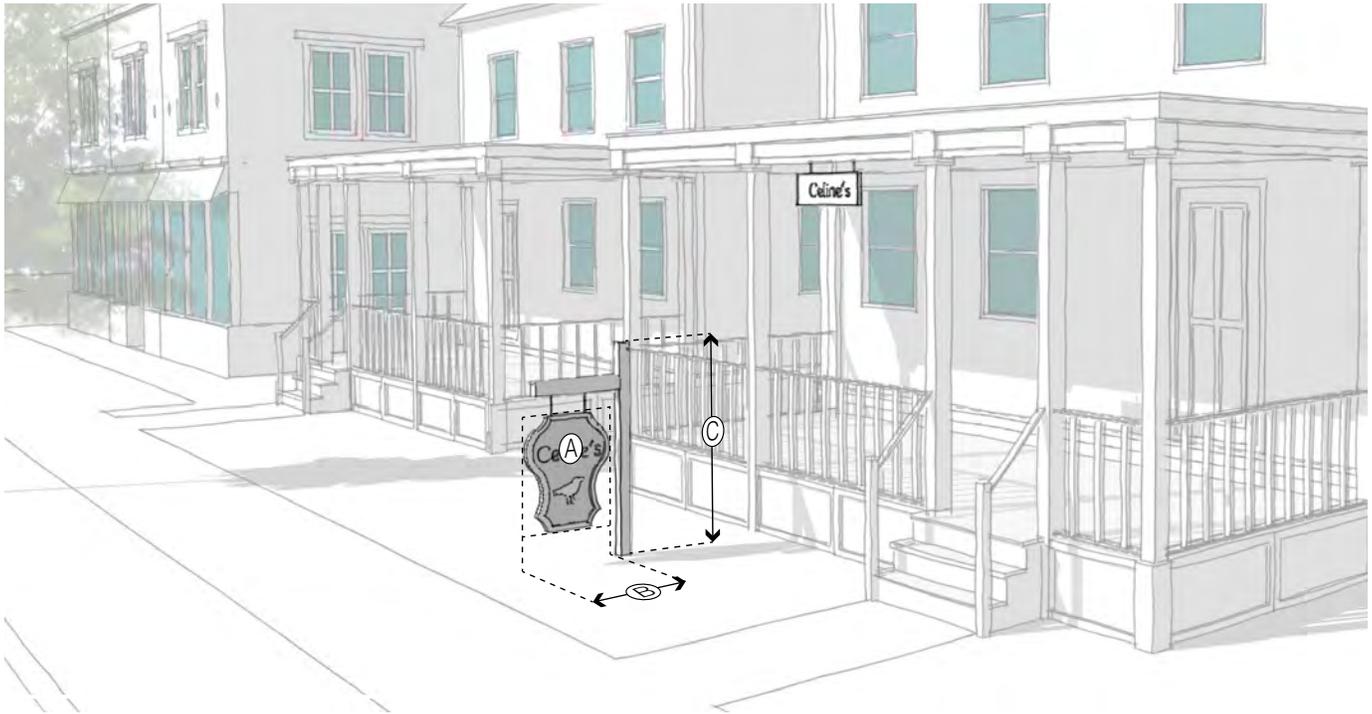
### Dimensions

(A)	Area (max per side)	Refer to Table 9C
(B)	Width (max)	90% of facade width
(C)	Projection from wall (max)	18"

### Specific Standards

1. A maximum of one wall sign is permitted per establishment per right-of-way frontage.
2. A maximum of one supplemental wall sign is allowed per building, as follows:
  - a. In the N-1S, D-IL, and D-IH zones, a supplemental wall sign is allowed on appurtenances, such as water towers or smokestacks, so long as the wall sign occupies no more than 50% of, and does not project from, the surface of the appurtenance.
  - b. In the N-1D, N-1C, N-1S, D-IL, and D-IH zones, a supplemental wall sign is allowed on an interior side or rear facade, or any other facade which faces an alley or passage. Such a wall sign may not project more than six inches from a facade and is limited to 300 square feet in area.
3. No wall sign may extend above the window sills of the second story, unless the establishment extends to the second story or above. No portion of a wall sign may extend above the roofline or parapet wall of a building with a flat roof, above the lower eave of a building with a pitched roof, or, in the case of a wall sign attached to an appurtenance, the highest point of the appurtenance.

## 9.2.14 Yard Sign



### Description

A yard sign is a two-sided sign that is located on either one or two posts within a front or corner side yard, and intended to be viewed along the sidewalk at close range.

### Dimensions

(A)	Area (max)	12 SF
(B)	Width (max, not including post)	4'
(C)	Height (max, including post)	5'

### Specific Standards

1. A maximum of one yard sign is permitted per site per right-of-way frontage.
2. An establishment may erect a yard sign along a right-of-way frontage only in lieu of a monument or pole sign.
3. No part of a yard sign may encroach upon a public right-of-way or overhang a drive aisle, parking space, or walkway.

## 9.3 OFF-PREMISE SIGNS

An off-premise sign is a permanent sign erected, maintained, or used for the purpose of the display of messages not related to the use of, products sold on, or the sale or lease of, the property on which it is displayed. A highway-oriented off-premise sign is an off-premise sign that is oriented to and within 660 feet of a highway.

### 9.3.1 Permitted Locations

**A.** Off-premise signs are permitted as follows:

1. An off-premise sign that is not oriented to a highway is permitted by right within the D-S, D-C, D-IL, and D-IH zones.
2. An off-premise sign that is not oriented to a highway is permitted only with a special use permit in the N-1C, N-1S, and N-3C zones, so long as it is building-mounted.
3. A highway-oriented off-premise sign is permitted within the N-1D, N-1C, N-1S, N-2C, N-2E, N-3C, N-3E, D-M, D-E, D-S, D-C, D-IL, and D-IH zones.

**B.** Off-premise signs are prohibited as follows:

1. An off-premise sign may not be located on any parcel within 200 feet of Hertel Avenue, between Delaware Avenue and Main Street.
2. An off-premise sign may not be located on any parcel within 200 feet of Seneca Street, between Spring Street and Smith Street.
3. An off-premise sign may not be located within 200 feet of any N-2R, N-3R, N-4-30, N-4-50, D-OG, or D-ON zone, where any of its sign faces are oriented to any such zone.
4. An off-premise sign may not be located in the C-W zone, except where the underlying zone is a D-IL or D-IH zone and where such off-premise signs are located at least 500 feet from the mean high water line of any water body.

**C.** Off-premise signs must be distanced as follows:

1. An off-premise sign that is not oriented to a highway must be located at least 500 feet from any other off-premise sign that is oriented to the same public right-of-way and the same direction of traffic.
2. A highway-oriented off-premise sign must be located at least 1,000 feet from any other off-premise sign that is oriented to the same highway and the same direction of traffic.

### 9.3.2 Dimensions

**A.** Off-premise signs are limited to a maximum sign area as follows:

1. An off-premise sign that is not oriented to a highway may be no more than 300 square feet in sign area per sign face, with the following exceptions:
  - a. An off-premise sign located in a D-IL or D-IH zone and at least 1,000 feet from an N-2R, N-3R, N-4-30, N-4-50, D-OG, or D-ON zone, may be no more than 672 square feet in area per sign face, plus an additional 20% of sign area for extensions or embellishments.
  - b. A building-mounted off-premise sign located in an N-1C or N-1S zone may be no more than 672 square feet in area per sign face, plus an additional 20% of sign area for extensions or embellishments, so long as it is positioned at least 30 feet above ground level and it is not oriented to and located within 500 feet of an N-2R, N-3R, N-4-30, N-4-50, D-OG, or D-ON zone.
    - i. This exception does not apply to off-premise signs located in the C-M zone, where such signs are limited to 300 square feet.
2. A highway-oriented off-premise may be no more than 672 square feet in area per sign face, plus an additional 20% of sign area for extensions or embellishments.

- B.** Off-premise signs are limited to a maximum sign height as follows:
  - 1.** An off-premise sign, including support structures, that is not oriented to a highway, may have a maximum overall height of 40 feet above ground level, except for building mounted off-premise signs, which may be no greater than 30 feet above the peak of the roof to which the off-premise sign is attached.
  - 2.** A highway-oriented off-premise sign may have a sign height of up to 30 feet above the roadbed crown measured at the centerline of the closest adjacent section of the highway.
- C.** Building-mounted off-premise signs are prohibited on a front facade of a building and must be positioned above the first story or on the roof of a building.
- D.** Off-premise signs may have a maximum of two sign faces, so long as the sign faces are positioned back-to-back.

## 9.4 EXEMPT SIGNS

### 9.4.1 Permanent Exempt Signs

The following permanent signs do not require a sign permit, but must still follow applicable requirements:

- A. Address Sign.** An address sign is a building-mounted sign that identifies the occupant and/or address of a structure.
  - 1.** A maximum of one address sign is permitted per building per right-of-way frontage.
  - 2.** An address sign may not exceed two square feet in area for a property with only a residential use or four square feet in area for a property with non-residential uses.
- B. Athletic Field Sign.** An athletic field sign is a sign that is incorporated into and designed as part of an athletic field, frequently attached to a scoreboard or outfield fence or wall, and is oriented toward the athletic field.
  - 1.** A scoreboard sign may contain an electronic message center (EMC), irrespective of the zone, but the EMC may be in operation only when the athletic facility is in use.
- C. ATM Sign.** An ATM is a sign that is incorporated into and designed as part of an automatic teller machine (ATM).
  - 1.** The advertisement upon the ATM sign must be limited to the term “ATM” and the name and logo of the financial institution rendering the ATM service.
- D. Building Directory Sign.** A building directory sign is a sign listing the names and locations of persons or establishments on the premises, and carrying no other advertising matter.
  - 1.** A maximum of one building directory sign is permitted per building per right-of-way frontage.
  - 2.** A building directory sign may not exceed 12 square feet in area.

- E. Building Identification Sign.** A building identification sign is a sign consisting of letters applied to the building wall, engraved into the building material, or consisting of a sculptural relief, and which contains the name of a building or describes its function, but which does not advertise any individual tenant of the building or any products or services offered.
- F. Community Bulletin Board.** A community bulletin board is a sign that is erected for the posting of temporary signs and contains no permanent advertising copy.
1. A maximum of one community bulletin board is allowed per site. In the case of a community bulletin board erected in a public right-of-way with an encroachment permit, no more than one such sign may be erected per block face.
  2. A bulletin board may not exceed 12 square feet in area. A sign posted to a bulletin board may not exceed two square feet in area.
- G. Flag.** A flag is a piece of cloth, usually rectangular, of distinctive color and design, used as a symbol, standard, signal, or emblem, and attached to a flagpole.
1. Failure to fly or display a United States flag in a manner that meets 36 U.S.C. 173-178 of the United States Code is considered a violation of this Ordinance.
- H. Fuel Pump Sign.** A fuel pump sign is a sign attached to a fuel pump advertising the cost of fuel.
1. A fuel pump sign may not exceed two square feet in area per pump. Operational and payment instructions on the face of the pump are exempt from this limitation.
- I. Government Sign.** A government sign is any sign placed or authorized by a government agency with jurisdiction to place such signage. Examples of government signs include traffic signs and signals, legal notices, railroad crossing signs, or signs regulating the traffic of, or giving information to, motorists, transit riders, cyclists, or pedestrians.
1. Government signs are permitted in any number, configuration, or size.
  2. In any zone, the type and extent of illumination of a government sign is at the discretion of the authorized government agency.
- J. Home Occupation Sign.** A home occupation sign is a sign identifying a home occupation on the premises.
1. A maximum of one home occupation sign, attached to the wall of the dwelling, is permitted per home occupation.
  2. A home occupation sign may not exceed two square feet in area.
- K. Memorial Plaque.** A memorial plaque is a freestanding or building-mounted plate of metal, ceramic, stone, wood, or other material, bearing text or an image in relief, or both, in memory of one or more persons, an event, a former use of the place, or other historical matter.
1. A memorial plaque located in the public right-of-way or on City property must be approved by the Buffalo Arts Commission.
- L. Menu Board.** A menu board is a permanently mounted sign displaying the items for sale for a drive-through establishment.
1. A maximum of two menu boards are permitted per drive aisle of a drive-through establishment.
  2. A menu board may not exceed 40 square feet in area.
  3. The audio component of a menu board is limited to communication between customers and employees, and may not exceed a volume of five decibels over ambient sound as measured from the nearest property line.

- M. Motor Vehicle For-Sale Sign.** A motor vehicle for-sale sign is a sign posted to a motor vehicle, indicating a sale price, vehicle make, and/or seller contact information.
  1. A maximum of one motor vehicle for-sale sign is allowed per vehicle.
  2. A motor vehicle for-sale sign may not exceed four square feet in area.
  
- N. Newspaper Vending Box Sign.** A newspaper vending box sign is a sign that is incorporated into and designed as part of a vending box for a newspaper or other periodical.
  1. The advertisement upon the newspaper vending box sign must be limited to the periodical vended.
  
- O. Parking Lot Directional Sign.** A parking lot directional sign is a sign that includes information assisting in vehicle traffic flow or parking, including information identifying entrances and exits, driveway intersections, drive-through lanes, or loading areas.
  1. A parking lot directional sign may not exceed four feet in height and four square feet in area.
  
- P. Parking Lot Information Sign.** A parking lot information sign is a sign that includes information on the operation of a parking lot, such as “No Parking” or “Unauthorized Users Shall Be Towed.”
  1. A parking lot information sign may not exceed six feet in height and 12 square feet in area.
  
- Q. Place Identification Sign.** A place Identification sign is a sign indicating the name of a subdivision, block club, office or industrial park, education or medical campus, or other recognized place.
  1. A maximum of one place identification sign is permitted per right-of-way intersection.
  2. A place identification sign may not exceed 12 square feet in area in an N-2R, N-3R, N-4-30, or N-4-50 zone, or 20 square feet in area in any other zone, and must not exceed four feet in height in any zone.
  
- R. Property Identification Sign.** A property identification sign is a building-mounted sign identifying the property management company or apartment complex name of the premises.
  1. A maximum of one property identification sign is permitted per building per right-of-way frontage.
  2. A property identification sign may not exceed four square feet in area.
  
- S. Public Information Sign.** A public information sign is any sign that provides information on the use of the facility, such as directional signs, trailhead entry signs, and information kiosks.
  1. A public information sign may not exceed 12 square feet in area in an N-2C, N-2E, N-2R, N-3C, N-3E, N-3R, N-4-30, or N-4-50 zone, and may not exceed 20 square feet in all other zones.
  
- T. Street Light Banner Sign.** A street light banner sign is a sign that is printed upon flexible material and held taut within frames, attached to a street light.
  1. Street light banner signs are allowed only with the authorization, and in accordance with the specifications, of the Commissioner of Public Works, Parks, and Streets.
  
- U. Transit Advertisement Sign.** A transit advertising sign is an advertising sign that is erected by the Niagara Frontier Transportation Authority (NFTA) on any of its property, including bus shelters, transit stations, and transit vehicles.
  
- V. Utility Sign.** A utility sign is installed by a public utility in its right-of-way or on its facility, and bearing no commercial message other than such message is necessary to identify the public utility and the use, and warn of any hazards.
  
- W. Vending Machine Sign.** A vending machine sign is a sign that is incorporated into and designed as part of a vending machine.
  1. The advertisement upon the vending machine sign must be limited to the products vended.

**X. Window Sign.** A window sign is a sign that is attached to, placed upon, printed on the interior or exterior of a window or door of a building, or displayed within one foot of the interior of a window, and is clearly intended for public recognition outside the building.

1. The total area of window signs may not exceed 25% of the total area of the window, or four square feet, whichever is greater. The total area of the window is measured as the area of continuous glazing until divided by an architectural or structural element, not including mullions.

#### 9.4.2 Temporary Exempt Signs

The following temporary signs do not require a sign permit, but must follow applicable standards.

**A. Banner Sign.** A banner sign is a temporary sign that is printed or displayed upon flexible material with or without frames, which advertises a special sale, event, or activity.

1. A maximum of one banner sign is permitted per site per right-of-way frontage. A banner for a temporary, non-commercial event may be extended over a public right-of-way, including over the entire right-of-way, only with an encroachment permit per Section 11.4.1.
2. A banner sign is limited to 35 square feet in area unless extended over a public right-of-way, in which case a banner sign is limited to a maximum width equal to that of the right-of-way and a maximum height of five feet.
3. A banner sign may not be illuminated.
4. A banner sign is limited to the following display periods:
  - a. When related to a time-specific event, a maximum display period of seven days prior to the event, the time period of the event, and two days following the event is permitted.
  - b. When not related to a time-specific

event, a display period of 30 days is permitted.

- c. A maximum of three display periods per year is permitted, so long as there is a minimum of 30 days between displays.

**B. Construction Sign.** A construction sign is a temporary sign intended to provide information about current construction on a site and the parties involved in the project.

1. A maximum of one construction sign is permitted per site. A construction sign may identify the developer, builder, architect, contractor, subcontractor, material supplier, elected officials, participating government agencies, and/or project description for an on-premises construction project.
2. The area of a construction sign may not exceed 35 square feet.
3. A construction sign may be erected only after approval of a building permit, and must be removed within two days of issuance of a certificate of occupancy.

**C. Non-Commercial Sign.** A non-commercial sign is any non-commercial sign, including signs advocating for a public issue or candidate for public office.

**D. Real Estate Sign.** A real estate sign is a temporary sign that advertises the sale or lease of the premises on which it is located, or an open house on the premises.

1. A maximum of one real estate sign per right-of-way frontage, per site, is permitted.
2. A real estate sign may not exceed six square feet in area for a residential use, or 12 square feet in area for a non-residential use.
3. A real estate sign may not be illuminated.
4. A real estate sign that advertises property for lease or sale may be posted only for the duration the property is offered for lease or sale, and must be removed within seven days

of lease or closing. A real estate sign that advertises an open house may be displayed only during the day of the open house and must be removed within two hours of the end of the open house.

- E. Trailer Sign.** A trailer sign is a temporary electronic, cord-connected sign that is not permanently attached to the ground or to a building and can be removed without the use of tools.
1. A maximum of one trailer sign per site per right-of-way frontage is permitted.
  2. A trailer sign may not exceed 35 square feet in area.
  3. A trailer sign may not encroach upon a public right-of-way.
  4. A trailer sign may not contain an electronic message center (EMC).
  5. A trailer sign is limited to the following display periods:
    - a. When related to a time-specific event, a maximum display period of seven days prior to the event, the time period of the event, and two days following the event is permitted.
    - b. When not related to a time-specific event, a display period of 30 days is permitted.
    - c. A maximum of three display periods per year is permitted, so long as there is a minimum of 30 days between displays.
- F. Yard/Garage Sale Sign.** A yard/garage sale sign is a temporary sign that advertises a yard or garage sale on the premises.
1. A maximum of one yard/garage sale sign per site is permitted.
  2. A yard/garage sale sign may not exceed six square feet in area and four feet in height.

3. A yard/garage sale sign may not be illuminated.
4. A yard/garage sale sign may be posted for a maximum display period of seven days prior to the yard or garage sale, the duration of the yard or garage sale, and two days following the yard or garage sale, with a maximum of three display periods per year.

# Article 10. Transportation Network

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## 10.1 BLOCKS

All new and reconfigured blocks must comply with the standards of this section.

### 10.1.1 Block Dimensions

A new block, or an existing block where a change in dimensions is proposed, must have a length and perimeter in accordance with Table 10A: Block Dimensions, measured as follows:

- A.** Block perimeter is measured along right-of-way lines along the aggregate of all block side lengths.
- B.** Block length is measured along the right-of-way line of one block side.
- C.** Where multiple zones apply to one block, the predominant zone along each block face will determine the maximum block length, and the least restrictive zone will determine the maximum block perimeter.
- D.** Block dimensions may be calculated at a reduced length or perimeter where a mid-block passage connecting two block sides is installed as a dedicated right-of-way or reserved with a permanent access easement.

### 10.1.2 Block Features

- A. Block Shape.** The shape of a new block must be generally rectangular, trapezoidal, or triangular, but may vary to conform to natural features, highway and rail rights-of-way, or park boundaries, or to provide interest and variety for pedestrians. Where blocks curve, they must generally maintain their cardinal orientation over their entire trajectory.
- B. Block Connectivity**
  - 1.** New vehicular rights-of-way must connect to and extend the existing block network where possible. This requirement does not apply to portions of the project boundary where connections cannot be made because of physical obstacles, such as prior platting of property, existing structures or other barriers,

TABLE 10A: BLOCK DIMENSIONS

ZONE	BLOCK LENGTH (MAX/PREFERRED)	BLOCK PERIMETER (MAX/PREFERRED)
N-1D	800'/400'	2,000'/1,600'
N-1C	800'/400'	2,000'/1,600'
N-1S	1,200'/400'	4,000'/1,600'
N-2C	800'/400'	2,000'/1,600'
N-2E	800'/400'	2,000'/1,600'
N-2R	800'/400'	2,000'/1,600'
N-3C	800'/400'	2,000'/1,600'
N-3E	800'/400'	2,000'/1,600'
N-3R	800'/400'	2,000'/1,600'
N-4-30	800'/400'	2,000'/1,600'
N-4-50	800'/400'	2,000'/1,600'
D-R	1,200'/400'	4,000'/1,600'
D-M	N/A	N/A
D-E	N/A	N/A
D-S	1,200'/400'	4,000'/1,600'
D-C	1,200'/400'	4,000'/1,600'
D-IL	N/A	N/A
D-IH	N/A	N/A
D-OG	N/A	N/A
D-OS	800'/400'	2,000'/1,600'
D-ON	N/A	N/A
C-R	N/A	N/A

steep slopes (slopes over 15%), wetlands and water bodies, railroad and utility rights-of-way, existing highway rights-of-way, and parks and dedicated open space.

2. All vehicular rights-of-way must terminate at other vehicular rights-of-way, forming a network. The Commissioner of Public Works, Parks, and Streets may grant an exception for culs-de-sac and dead-end streets in the following instances:
  - a. No connection is available to an existing adjacent subdivision, or a natural or man-made barrier, such as a waterway, railroad, limited-access expressway, or unusual topography, exists that prevents connection.
  - b. The cul-de-sac or dead-end street is no more than 330 feet in length, as measured along the centerline from the closest intersection.
  - c. A pedestrian or bicycle through-connection is provided, if possible, from the terminus of the cul-de-sac or dead-end street to adjacent rights-of-way.
3. Where adjoining areas are not developed, vehicular rights-of-way in new subdivisions must be extended to the project boundary line to make provision for the future projection of vehicular rights-of-way into the adjoining areas. Such rights-of-way must be provided at intervals no greater than the maximum block length for the zone, as indicated in Table 10A.
4. Alleys may be required for new or reconfigured blocks. In all cases, blocks with existing alley access must maintain such access.
5. A mid-block passage, dedicated as a right-of-way or reserved with a permanent access easement, may be required where a block side is longer than 660 feet. If required, the mid-block passage must generally be located in the middle third of the block side.

When combined with mid-block crossings, these passages must align to facilitate easy pedestrian movements.

6. **Block Restoration.** Where a block network has been disconnected due to urban renewal or other factors, the historic rights-of-way should be restored to the maximum extent practicable during redevelopment.

### 10.1.3 Waivers and Modifications.

The Commissioner of Public Works, Parks, and Streets may waive or adjust the requirements of this section where the standards are determined to not adequately protect the public health, safety, and welfare.

## 10.2 RIGHTS-OF-WAY

All new construction, reconstruction, and reconfiguration of rights-of-way must comply with this section. All new construction, reconstruction, and reconfiguration of rights-of-way require submission of a thoroughfare plan per Section 11.4.5. This section does not apply to limited access expressways.

### 10.2.1 General

**A.** A right-of-way must be designed in relation to topographic and drainage conditions, public convenience and safety, and the existing and proposed development served by the right-of-way.

#### **B. Accessibility**

- 1.** All public and private rights-of-way must conform with Public Right-of-Way Accessibility Guidelines (PROWAG) set forth by the United States Access Board.
- 2.** All public and private vehicular rights-of-way must be complete streets, designed for safe, comfortable, and convenient movement both along and across rights-of-way by people of all ages and abilities, using multiple modes, consistent with the City's complete streets policy.

#### **C. Right-of-Way Types**

- 1.** All vehicular rights-of-way, whether publicly dedicated or privately held, must match one of the right-of-way types described by Section 10.2.8.
- 2.** A right-of-way type is a classification that reflects the general design parameters of the right-of-way, including, but not limited to, target speed, number of travel lanes, travel lane width, medians, and the width of certain elements of the pedestrian way. These functional classifications are divided into the following:
  - a.** Passage. A pedestrian connector passing between or through buildings,

providing shortcuts through long blocks and sometimes connecting rear parking areas with frontages.

- b.** Alley. A vehicular drive located to the rear of lots providing access to service areas, parking, or accessory structures, and containing utility easements.
- c.** Lane. A narrow, slow movement thoroughfare, typically containing one travel lane.
- d.** Street. A local thoroughfare of low speed and capacity.
- e.** Avenue. A thoroughfare of high vehicular capacity and low speed, that is often a short distance connector between neighborhood centers or an approach to a civic building.
- f.** Boulevard. A long-distance thoroughfare that traverses an urbanized area and is designed for high vehicular capacity and moderate speed.
- g.** Multiway Boulevard. A variation of a boulevard characterized by a central roadway for through traffic and parallel lanes accessing abutting property, parking, and pedestrian and bicycle facilities.

**D. Right-of-Way Context.** Rights-of-way must be consistent with the zone and the intended form and use of abutting property; i.e., a mixed-use right-of-way type would be consistent with a mixed-use zone, such as the N-1C or N-3C zones.

**E. Right-of-Way Parameters.** The required parameters for the right-of-way types described in Section 10.2.8 are subject to the following additional considerations:

- 1.** Where driveway access is permitted, any curb cuts must be in accordance with Section 8.3.2.
- 2.** The pedestrian way must be articulated with well-defined frontage, throughway, furnishing,

edge, and extension zones, as applicable, in accordance with Section 10.2.2.

- 3. Where installed, bicycle facilities must be in accordance with Section 10.2.3.
- 4. Where installed, medians must be in accordance with Table 10B: Median Dimensions.

TABLE 10B: MEDIAN DIMENSIONS

MEDIAN TYPE	WIDTH (MIN/PREFERRED)
Median for access control	4'/6'
Median for pedestrian refuge	6'/8'
Median for street trees and lighting	6'/10'
Median for single left-turn lane, streets/avenues	10'/14'
Median for single left-turn lane, boulevards/multiway boulevards	12'/16'-18'
Median for multi-use path, double row of trees	20'/24'
Median for transitway	22'/24', plus 10' for each side platform, or 30' for center platform

- 5. Where curb parking is required, the curb parking must be provided to the maximum extent practicable on both sides of the vehicular way. Exceptions may be made for drop-off and loading zones, bus lanes/ busways, curb extensions and mid-block plazas, or enhanced pedestrian or bicycle facilities.
- 6. Street trees are required in accordance with Section 7.1.4.
- 7. Street lighting must be installed in accordance with Section 7.4.3.
- 8. Wherever funding is available and site conditions allow, rights-of-way may be designed to infiltrate stormwater, either through porous pavement treatments or by directing stormwater into bioretention cells, in accordance with Section 7.3. Plants used

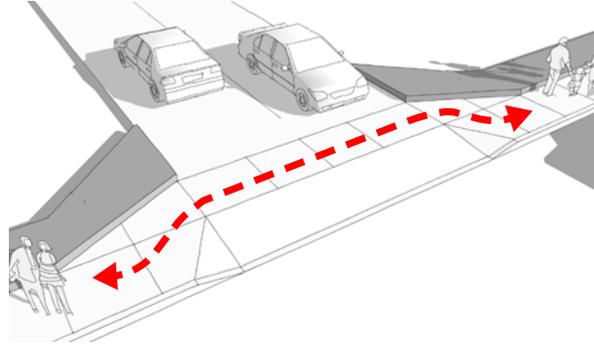
in a bioretention cell must be comprised of species that require low maintenance and are able to tolerate salt, frequent inundation, and periods of drought. The use of a public right-of-way to capture or treat stormwater from private property is prohibited.

- F. **Right-of-Way Construction.** All right-of-way construction and repair must be in accordance with standards and specifications set forth by the Commissioner of Public Works, Parks, and Streets. Any right-of-way work requires a right-of-way work permit per Section 11.4.3.
- G. **Public Use.** All vehicular rights-of-way, whether publicly dedicated or privately held, must be available for public use at all times. Gated rights-of-way and rights-of-way posted as private are not permitted. The Commissioner of Public Works, Parks, and Streets may waive this requirement for public safety purposes, to facilitate construction or events, or for rights-of-way which serve sensitive governmental facilities.
- H. **Waivers and Modifications.** The Commissioner of Public Works, Parks, and Streets may waive or adjust the requirements of this section as follows:
  - 1. Where a constrained right-of-way width, existing drainage patterns, or natural features, such as established trees, do not allow for the required dimensions of the right-of-way type, alternative dimensions may be approved, so long as the design of the right-of-way:
    - a. Accommodates required access for people with disabilities and access to adjacent uses and transit stops.
    - b. Ensures the safety, and facilitates the expected levels, of pedestrian activity.
    - c. Provides adequate protection for pedestrians.
  - 2. Where the standards of this section are determined to not adequately protect the public health, safety, and welfare, alternative or additional standards may be applied.

## 10.2.2 Pedestrian Facilities

### A. Required Sidewalks

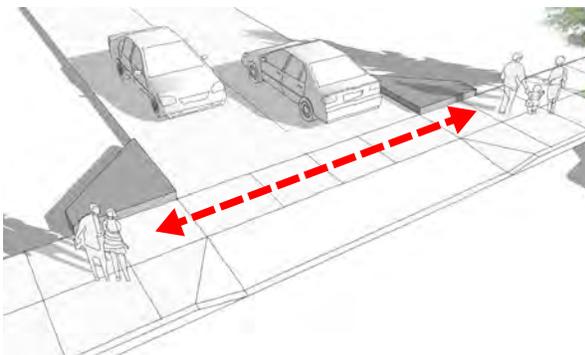
1. All development that involves new construction of a principal building, expansion of an existing principal building by 2,500 square feet or more, or substantial renovation of an existing principal building, must provide for sidewalks of the minimum dimensions prescribed by the right-of-way type per Section 10.2.8. Sidewalks must be installed, widened, or modified, as appropriate, prior to the issuance of a certificate of occupancy.
2. Sidewalks must be maintained in a state of good repair by the owner of the property fronting any thoroughfare in accordance with Chapter 413 of the City Code.
3. Sidewalks must be provided on both sides of all vehicular rights-of-way, except for alleys or where one side of the right-of-way is a steep vertical wall, railroad, or other feature to which the public does not require access.
4. Sidewalks must be paved with a fixed, non-slip material.
5. Sidewalks must be as straight and direct as possible, except to avoid established trees or unavoidable obstacles.
6. Where sidewalks cross driveways, the throughway zone must remain level, with no change in cross-slope. The appearance of the throughway zone, such as scoring pattern or special paving, must be maintained across



the driveway to indicate that, although a vehicle may cross, the area traversed by a vehicle remains part of the pedestrian way.

- ### B. Sidewalk Zones.
- The pedestrian way, composed of the portion of the right-of-way that typically includes the planting area and sidewalk and is measured from the curbline to the property line of the adjoining properties, must be articulated according to the following sidewalk zones:

1. **Frontage Zone.** The area adjacent to the property line that provides a transition between the public sidewalk and the building facade.
2. **Throughway Zone.** The portion of the sidewalk used for pedestrian travel that is clear of obstacles and provides a smooth walking surface.
3. **Furnishing Zone.** The portion of the sidewalk used for street trees, landscape, transit stops, street lights, sidewalk cafes, and site furnishings.
4. **Edge Zone.** The area used by people getting in and out of vehicles parked at the curbside.
5. **Extension Zone.** The area where pedestrian space may be extended into the parking lane, via features such as bulb-outs or mid-block plazas. The extension zone is an optional element subject to the approval of the Commissioner of Public Works, Parks, and Streets.



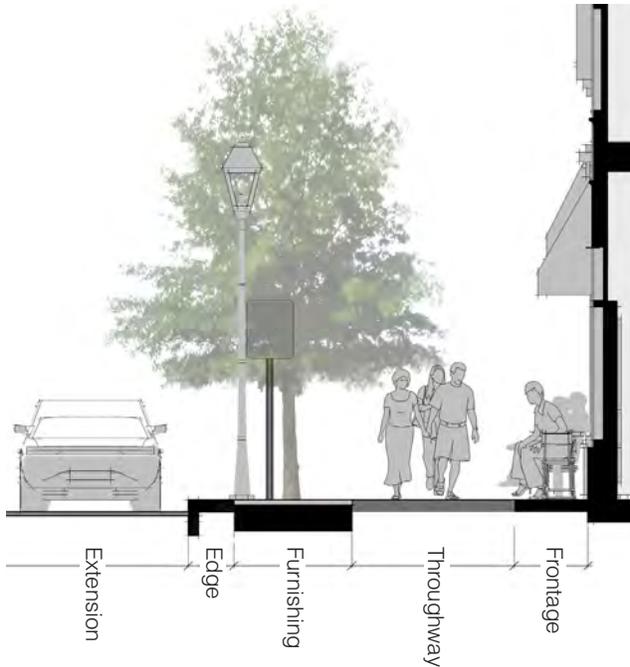


TABLE 10C: STREETSCAPE ELEMENT LOCATION

Pedestrian Way Zone	Appropriate Elements (General)
Frontage Zone	Merchandise displays, cafe seating, furnishings aligned with building frontage, planting along building frontage
Throughway Zone	Special paving
Furnishing Zone	Trees and plantings, seating, bicycle racks, kiosks, cafe seating, public art, utility boxes, transit shelters, other site furnishings
Edge Zone	Street lights, parking meters, signage poles, bollards, non-continuous tree basins
Extension Zone	Planting and seating areas in flexible parking zones or on curb extensions, trees in islands, transit shelters

**C. Streetscape Elements.** The placement and layout of typical streetscape elements must be in accordance with Table 10C: Streetscape Element Location.

**D. Sidewalk Zone Parameters.** The required parameters for sidewalk zones for right-of-way types described in Section 10.2.8 are subject to the following additional considerations:

1. At transit stops with shelters, the furnishing and edge zones should be widened to a minimum of four feet to provide wheelchair access to and in front of the shelter.
2. Where sidewalk cafes are anticipated in the frontage zone and/or furnishing zone, the frontage zone and/or furnishing zone should be at least six feet in width.
3. Where very high pedestrian volumes are expected, such as at Metro Rail stations, transit transfer points, and arena and theater entrances and exits, additional sidewalk width and special design attention, particularly at crossings, should be provided.

### 10.2.3 Bicycle Facilities

**A.** The following bicycle facilities may be considered in right-of-way construction, reconstruction, and reconfiguration projects, taking into consideration the appropriateness of the bicycle facility for the right-of-way type and surrounding context:

1. **Sharrows.** A marking placed in a vehicular travel lane to indicate that a bicyclist may use the full lane. Also called a shared-lane marking.
2. **Bike Lane.** A portion of the roadway that has been designated by striping, signage, and pavement markings for the preferential or exclusive use of bicyclists, typically located adjacent to motor vehicle travel lanes and flowing in the same direction as motor vehicle traffic.
3. **Buffered Bike Lane.** A conventional bicycle lane paired with a designated buffer space separating the bicycle lane from the adjacent motor vehicle travel lane and/or parking lane.
4. **Contra-Flow Bike Lane.** A bicycle lane designed to allow bicyclists to ride in the opposite direction of motor vehicle traffic,

typically used to convert a one-way traffic street into a two-way street, one direction being for motor vehicles and bikes, and the other being for bikes only.

5. **Left-Side Bike Lane.** A conventional bike lane placed on the left side of one-way streets or two-way median divided streets.
6. **Cycle Track.** An exclusive bike facility that combines the user experience of a separated path with the on-street infrastructure of a conventional bike lane. A cycle track is physically separated from motor traffic and distinct from the sidewalk.
7. **Raised Cycle Track.** A bicycle facility that is vertically separated from motor vehicle traffic, typically paired with a furnishing zone between the cycle track and motor vehicle travel lane and/or pedestrian area, and allowing for one-way or two-way travel by bicyclists.
8. **Two-Way Cycle Track.** A physically separated cycle track that allows bicycle movement in both directions on one side of the road.

- B. Where installed, such bicycle facilities, as well as intersection treatments, bicycle signals, and bikeway signs and marking, must be designed in accordance with the Manual on Uniform Traffic Control Devices (MUTCD), plus the New York Supplement, and the Urban Bikeway Design Guide published by the National Association of City Transportation Officials (NACTO).

### 10.2.4 Intersection Treatments

#### A. Curb Ramps

1. At intersections, ADA-compliant curb ramps enabling persons with special mobility needs to safely cross a roadway must be installed.
2. Curb ramps that align with the crosswalk, consistent with the direction of pedestrian travel, are preferred.

#### B. Crosswalks

1. A crosswalk, defined as a lateral extension of a sidewalk through an intersection, may be marked or unmarked. Legally, crosswalks exist at all intersections (including T-intersections) unless specifically prohibited.
2. Marked crosswalks, delineating preferred crossing routes for pedestrians and alerting other road users where to expect crossing pedestrians, should generally be installed and maintained at high priority intersections where greater pedestrian visibility is desired, such as at school crossings, where two or more transit routes cross, where traffic volumes exceed 2,000 Vehicles Per Day (VPD), and at crossings in the N-1D, N-1C, N-1S, N-2C, and N-3C zones.
3. A marked crosswalk must align with curb ramps and be at least six feet in width. Where large volumes of pedestrians are expected at the intersection, high-visibility striping, such as continental striping, is preferred.

#### C. Curb Extensions

1. Curb extensions (also known as “bump-outs” or “bulb-outs”) extend the sidewalk out into the street, usually to the edge of the on-street parking lane. The feasibility of curb extensions should be evaluated whenever curb ramps are installed or an intersection is reconstructed or reconfigured, giving careful consideration to potential impacts on delivery access, garbage and snow removal, and street sweeping.
2. Where installed, a curb extension may extend no greater than one foot less than the width of the parking lane. A curb extension must be at least 15 feet in length or, in the case of a curb extension designed to accommodate transit passenger boarding and alighting, long enough to encompass the front and rear doors of the transit vehicles that will use the curb extension.
3. The design and placement of street furniture,

trees, and plantings on a curb extension may not impede pedestrian flow or interfere with corner visibility. Vertical elements should be used to alert drivers and snow plow operators to the presence of a curb extension.

#### D. Pedestrian Refuge Islands

1. Pedestrian refuge islands, which can be used to divide travel lanes and provide spaces for pedestrians to safely wait while crossing the vehicular way, should be considered in the following circumstances:
  - a. Any pedestrian crossing where the vehicular way consists of four or more travel lanes.
  - b. Any intersection where signal timing may not allow pedestrians to cross in one phase.
  - c. Any intersection with difficult crossing geometry.
2. Where installed, a pedestrian refuge island should:
  - a. Have an area of at least 120 square feet with minimum dimensions of six feet in width and 20 feet in length.
  - b. Include an ADA-compliant channel of a minimum of five feet in width and six feet in depth. A channel of six feet in width and eight feet in depth is preferred.
  - c. Be designed to discourage vehicles from encroaching into it.

#### E. Pedestrian Signals

1. Pedestrian signals, which inform pedestrians when to cross at signalized intersections, may be required at signalized intersections. The inclusion of pedestrian signals that are accessible to the visually impaired are preferred.
2. Where pedestrian signals are installed, the pedestrian signal phase timing must comply with MUTCD standards.

#### F. Mid-Block Crossings

1. Mid-block crossings provide convenient crossing locations for pedestrians where intersection crossing opportunities are distant, and may be considered in accordance to the Department of Public Works, Streets, and Parks policy on mid-block crossings.
2. Where installed, a mid-block crossing should:
  - a. Be placed generally within the middle third of the block side.
  - b. Be built with curb extensions, wherever advisable, to enhance pedestrian crossing visibility and reduce crossing distances.
  - c. Coincide with mid-block passages, if present.

#### G. Roundabouts

1. Roundabouts, which are circular intersections in which vehicular traffic is slowed and flows almost continuously in one direction around a central island to several exits onto intersecting rights-of-way, may be considered where it is desirable to increase vehicular capacity at intersections, slow traffic, and reduce the severity of collisions.
2. Where installed, a roundabout must be in accordance with the FHWA's Roundabouts: An Informational Guide.

#### 10.2.5 Traffic Control Devices

All traffic control devices, such as right-of-way signs, pavement markings, and traffic signals, must be consistent with the Manual on Uniform Traffic Control Devices (MUTCD), plus the New York State Supplement.

#### 10.2.6 Traffic Calming Measures

- A. Traffic calming measures, such as full closures and half closures, speed tables, lateral shifts and chicanes, knockdowns, chokers, and center island narrowing, may be considered in

right-of-way construction, reconstruction, and reconfiguration projects, subject to approval by the Commissioner of Public Works, Parks, and Streets.

- B.** Where installed, traffic calming measures, to the extent practicable, must be designed in accordance with the Institute for Transportation Engineers' Traffic Calming: State of the Practice or another nationally recognized standard accepted by the Commissioner of Public Works, Parks, and Streets.

### 10.2.7 Road Diets

Wherever an existing right-of-way is reconstructed or reconfigured, consideration must be given to the appropriateness of a road diet, defined as a reduction in the number or width of travel lanes within a right-of-way, allowing reallocation of vehicular space to alternative uses (i.e., parking lanes, bicycle facilities, medians, pedestrian refuge islands, or widened sidewalks or planting strips). A road diet is typically appropriate on rights-of-way carrying fewer VPD than the right-of-way is designed to accommodate (i.e., a right-of-way with four travel lanes carrying less than 20,000 VPD may be a prime candidate for a four-lane to three-lane conversion).

### 10.2.8 Right-of-Way Types

This section describes the right-of-way types and their required and preferred parameters, which are derived from the ITE Walkable Urban Thoroughfares Manual and NACTO Urban Bikeway Design Guide. The illustrative examples provided in this section communicate one possible configuration of each right-of-way type. By applying the requirements outlined and working with the Commissioner of Public Works, Parks, and Streets, various configurations may be determined acceptable.

## A. Passage



### General

(A)	Right-of-way width (min/preferred)	10'/30'
(B)	Bicycle/pedestrian facility type	Sidewalk or multi-use path

### Pedestrian Way

(C)	Total pedestrian way width (min/preferred)	10'/30'
(D)	Frontage zone (min/preferred)	0'/9'
(E)	Throughway zone (min/preferred)	10'/12'

## B. Alley



### General

Traffic volume range	Less than 1,000 VPD
Target Speed	5-15 MPH
(A) Right-of-way width (min)	Travel lane width, plus 2' shoulders on either side
Driveway access	Permitted
Bicycle facility type (preferred)	Shared
Pedestrian facility type	Shared
Freight movement (generally)	Local deliveries only

### Vehicular Way

(B) Number of travel lanes	1
(C) Travel lane width (min/max)	8'/20'
Curb parking	Not permitted

## C. Lane



### General

Traffic volume range	Less than 2,500 VPD
Target speed	10-25 MPH
<b>A</b> Right-of-way width (min/preferred)	33'/54'
Driveway access	Permitted
Pedestrian facility type	Sidewalk
Bicycle facility type (preferred)	Shared
Freight movement (generally)	Local deliveries only

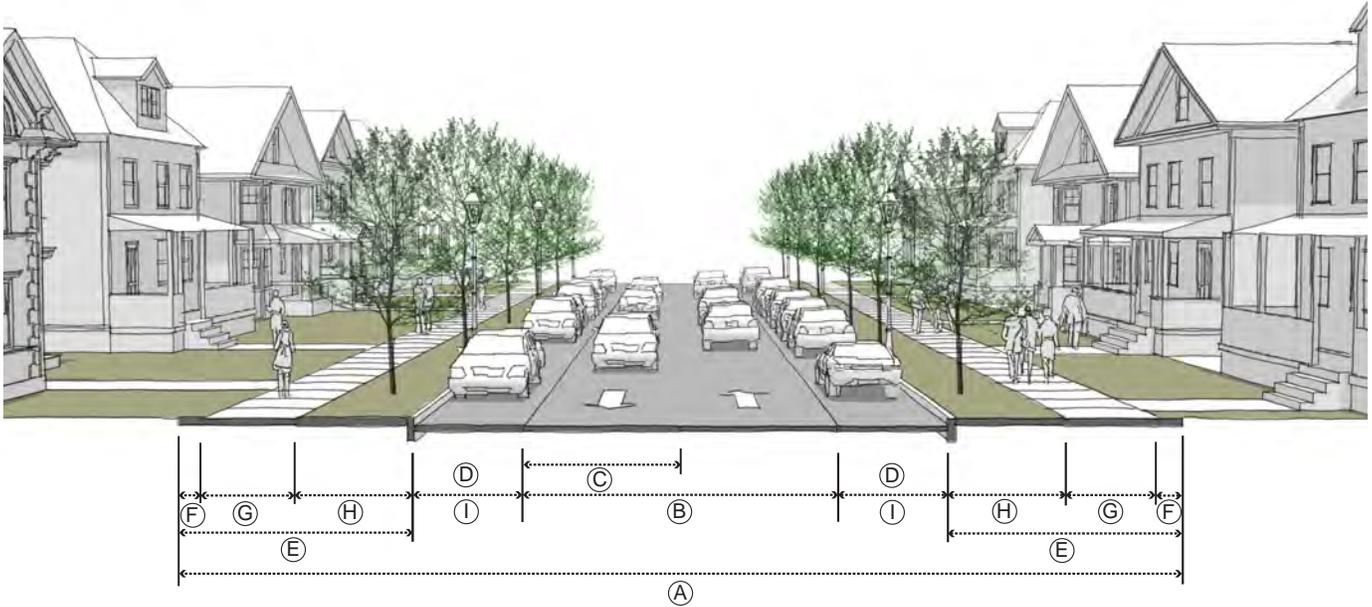
### Vehicular Way

<b>B</b> Number of travel lanes	1
<b>C</b> Travel lane width (min/max)	10'/18'
Curb parking	Preferred
<b>D</b> Parallel curb parking width, if provided (min/max)	7'/8'

### Pedestrian Way

<b>E</b> Total pedestrian way width (min/preferred)	4.5'/15'
<b>F</b> Frontage zone (min/preferred)	0'/1.5'
<b>G</b> Throughway zone (min/preferred)	4.5'/6'
<b>H</b> Edge and furnishing zones (min/preferred)	0'/7.5'
<b>I</b> Extension zone, if provided (max)	Width of the parking lane

## D. Residential Street



### General

Traffic volume range	500 to 5,000 VPD
Target speed	25 MPH
(A) Right-of-way width (min/preferred)	52'/64'
Driveway access	Permitted
Pedestrian facility type	Sidewalk
Bicycle facility type (preferred)	Shared
Freight movement (generally)	Local deliveries only

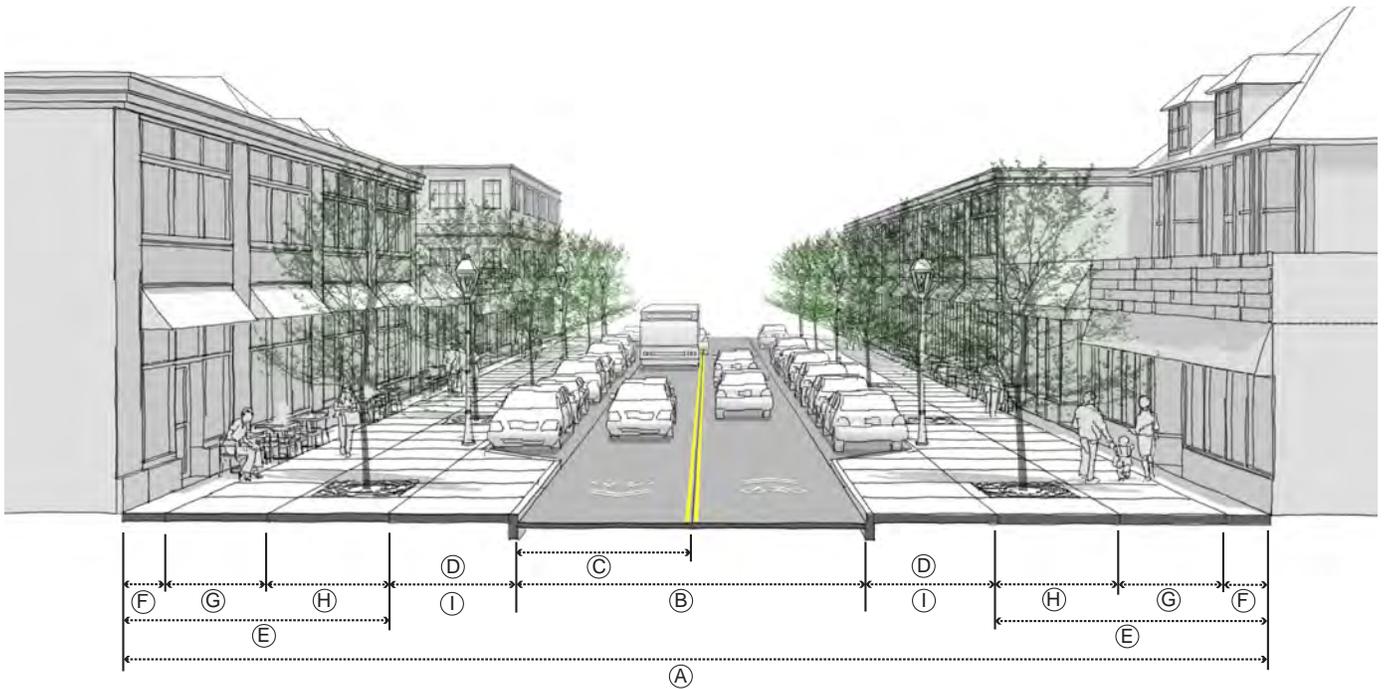
### Vehicular Way

(B) Number of travel lanes	2
(C) Travel lane width (min/max)	10'/11'
Median	Optional
Turning Lane	Not permitted
Curb Parking	Optional
(D) Parallel curb parking width (min/max)	7'/8'

### Pedestrian Way

(E) Total pedestrian way width (min/preferred)	9'/15'
(F) Frontage zone (min/preferred)	1'/1.5'
(G) Throughway zone (min/preferred)	5'/6'
(H) Edge and furnishing zones (min/preferred)	3'/7.5'
(I) Extension zone, if provided (max)	Width of the parking lane

## E. Mixed-Use Street



### General

Traffic volume range	1,000 to 15,000 VPD
Target speed	25 MPH
(A) Right-of-way width (min/preferred)	58'/66'
Driveway access	Permitted, but not encouraged
Pedestrian facility type	Sidewalk
Bicycle facility type (preferred)	Shared
Freight movement (generally)	Local deliveries only

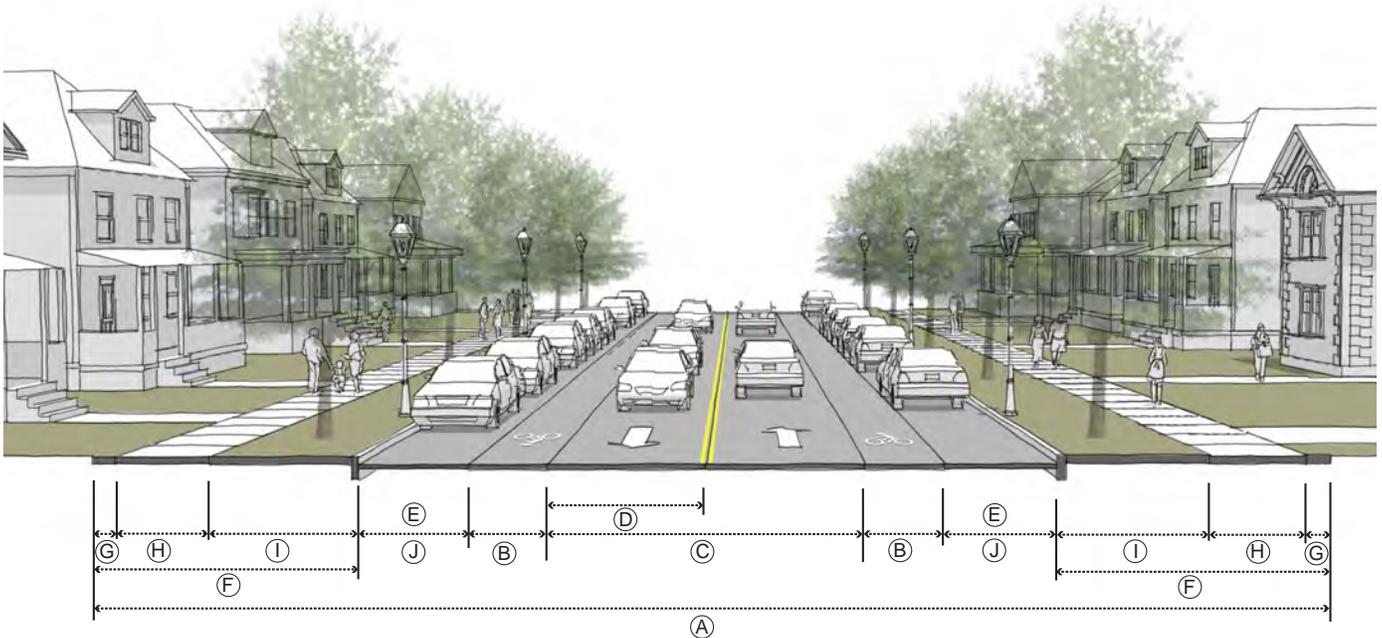
### Vehicular Way

(B) Number of travel lanes	2
(C) Travel lane width (min/max)	10'/11'
Median	Optional
Turning lane	Not permitted
Curb parking	Required
(D) Parallel curb parking width (min/max)	7'/8'

### Pedestrian Way

(E) Total pedestrian way width (min/preferred)	12'/18'
(F) Frontage zone (min/preferred)	2'/2.5'
(G) Throughway zone (min/preferred)	6'/8'
(H) Edge and furnishing zones (min/preferred)	4'/7.5'
(I) Extension zone, if provided (max)	Width of the parking lane

## F. Residential Avenue



### General

Traffic volume range	1,500 to 20,000 VPD
Target speed	25 to 30 MPH
Ⓐ Right-of-way width	
Two travel lanes (min/preferred)	52'/68'
Two travel lanes, plus one turning lane (min/preferred)	62'/78'
Four travel lanes (min/preferred)	72'/88'
Four travel lanes, plus one turning lane (min/preferred)	82'/98'
Driveway access	Permitted
Pedestrian facility type	Sidewalk
Ⓑ Bicycle facility type (preferred)	Shared or bike lane/cycle track
Freight movement (generally)	Local truck route

### Vehicular Way

Ⓒ Number of travel lanes	2 to 4
Ⓓ Travel lane width (min/max)	10'/12'
Median	Optional
Turning lane	Optional
Curb Parking	Required
Ⓔ Parallel curb parking width (min/max)	7'/8'

### Pedestrian Way

Ⓕ Total pedestrian way width (min/preferred)	9'/17'
Ⓖ Frontage zone (min/preferred)	1'/1.5'
Ⓗ Throughway zone (min/preferred)	5'/6'
Ⓘ Edge and furnishing zones (min/preferred)	3'/9.5'
Ⓙ Extension zone, if provided (max)	Width of the parking lane

## G. Mixed-Use Avenue



### General

Traffic volume range	1,500 to 30,000 VPD
Target speed	25 to 30 MPH
(A) Right-of-way width	
Two travel lanes (min/preferred)	58'/73'
Two travel lanes, plus one turning lane (min/preferred)	68'/83'
Four travel lanes (min/preferred)	78'/93'
Four travel lanes, plus one turning lane (min/preferred)	88'/103'
Driveway access	Permitted, but not encouraged
Pedestrian facility type	Sidewalk
(B) Bicycle facility type (preferred)	Shared or bike lane/cycle track
Freight movement (generally)	Local truck route

### Vehicular Way

(C) Number of travel lanes	2 to 4
(D) Travel lane width (min/max)	10'/12'
Median	Optional
(E) Turning lane	Optional
Curb Parking	Required
(F) Parallel curb parking width (min/max)	7'/8'

### Pedestrian Way

(G) Total pedestrian way width (min/preferred)	12'/19.5'
(H) Frontage zone (min/preferred)	2'/3'
(I) Throughway zone (min/preferred)	6'/9'
(J) Edge and furnishing zones (min/preferred)	4'/7.5'
(K) Extension zone, if provided (max)	Width of the parking lane

## H. Residential Boulevard



### General

Traffic volume range	10,000 to 30,000 VPD
Target speed	25 to 30 MPH
Ⓐ Right-of-way width	
Four travel lanes (min/preferred)	86'/118'
Four travel lanes, plus one turning lane (min/preferred)	92'/122'
Six travel lanes (min/preferred)	106'/138'
Six travel lanes, plus one turning lane (min/preferred)	112'/142'
Driveway access	Permitted
Pedestrian facility type	Sidewalk
Ⓑ Bicycle facility type (preferred)	Bike lane/cycle track
Freight movement (generally)	Regional truck route

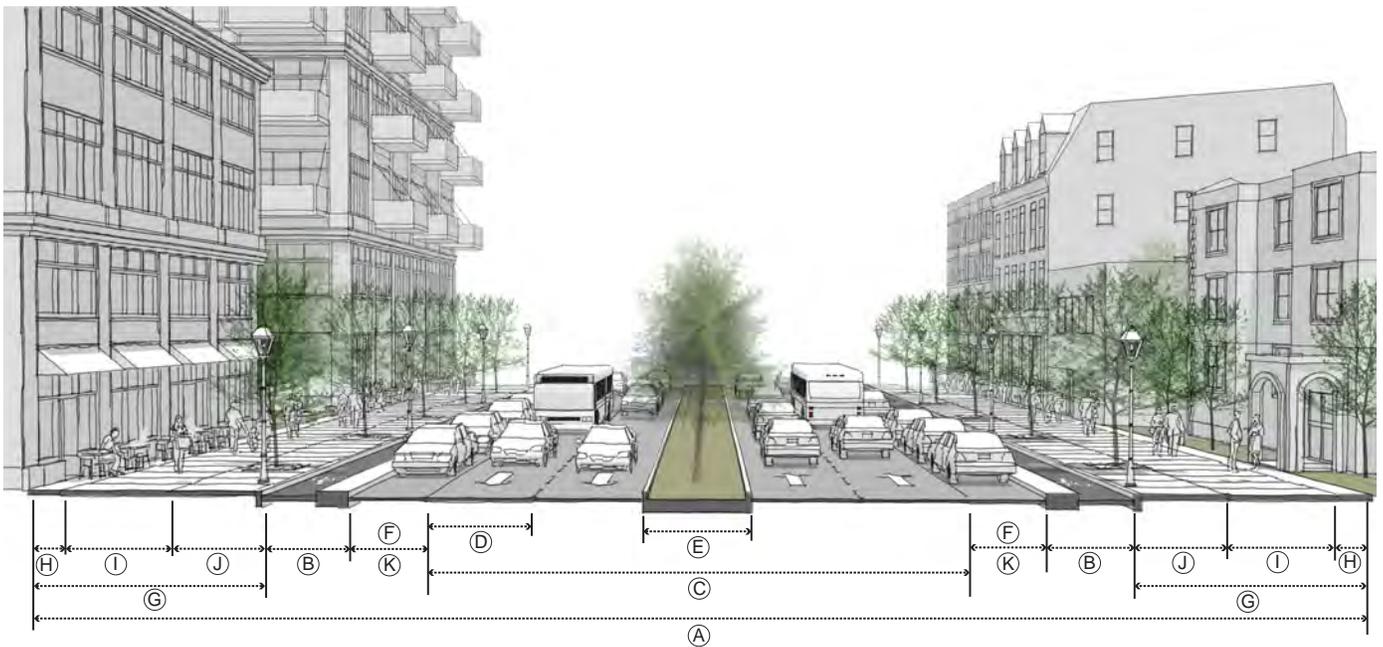
### Vehicular Way

Ⓒ Number of travel lanes	4 to 6
Ⓓ Travel lane width (min/max)	10'/12'
Ⓔ Median	Required
Turning lane	Optional
Curb Parking	Required
Ⓕ Parallel curb parking width (min/max)	7'/8'

### Pedestrian Way

Ⓖ Total pedestrian way width (min/preferred)	9'/19'
Ⓗ Frontage zone (min/preferred)	1'/1.5'
Ⓘ Throughway zone (min/preferred)	5'/8'
Ⓙ Edge and furnishing zones (min/preferred)	3'/9.5'
Ⓚ Extension zone, if provided (max)	Width of the parking lane

## I. Mixed-Use Boulevard



### General

Traffic volume range	15,000 to 40,000 VPD
Target speed	25 to 30 MPH
(A) Right-of-way width	
Four travel lanes (min/preferred)	92'/117'
Four travel lanes, plus one turning lane (min/preferred)	98'/127'
Six travel lanes (min/preferred)	112'/143'
Six travel lanes, plus one turning lane (min/preferred)	118'/147'
Driveway access	Permitted, but not encouraged
Pedestrian facility type	Sidewalk
(B) Bicycle facility type (preferred)	Bike lane/cycle track
Freight movement (generally)	Regional truck route

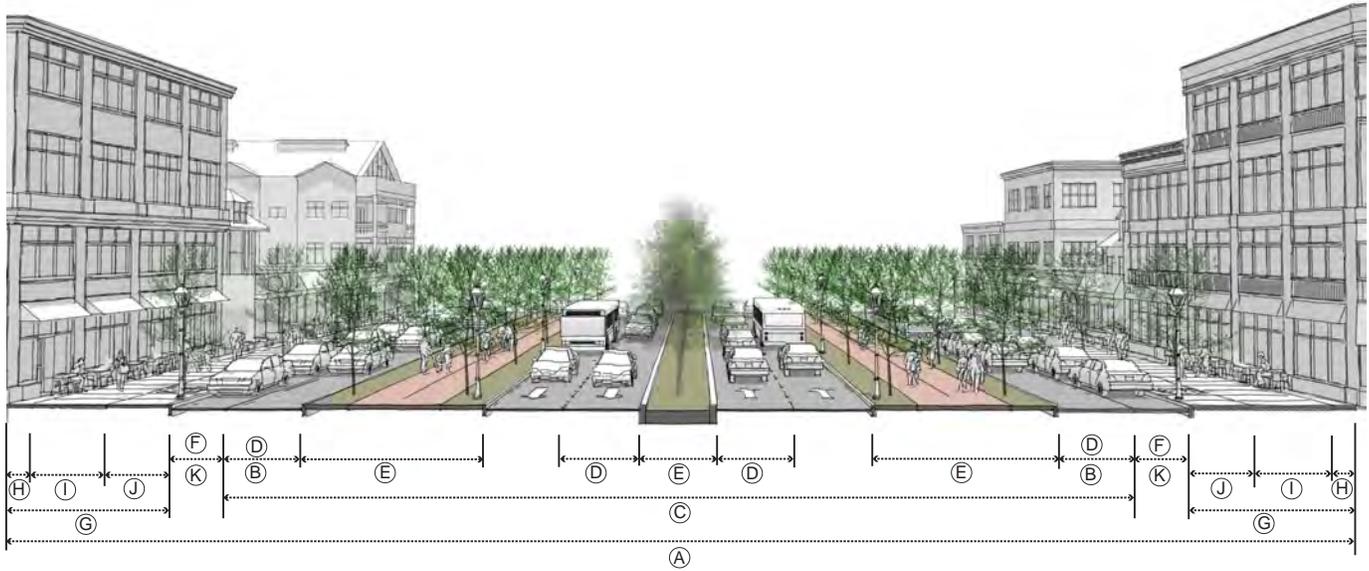
### Vehicular Way

(C) Number of travel lanes	4 to 6
(D) Travel lane width (min/max)	10'/12'
(E) Median	Required
Turning lane	Optional
Curb Parking	Required
(F) Parallel curb parking width (min/max)	7'/8'

### Pedestrian Way

(G) Total pedestrian way width (min/preferred)	12'/21.5'
(H) Frontage zone (min/preferred)	2'/3'
(I) Throughway zone (min/preferred)	6'/10'
(J) Edge and furnishing zones (min/preferred)	4'/8.5'
(K) Extension zone, if provided (max)	Width of the parking lane

## J. Multiway Boulevard



### General

Traffic volume range	15,000 to 70,000 VPD
Target speed	25 to 30 MPH
(A) Right-of-way width	
Four central lanes, plus two access lanes (min/preferred)	110'/147'
Four central lanes, plus one turning lane and two access lanes (min/preferred)	116'/151'
Six central lanes, plus two access lanes (min/preferred)	130'/167'
Six central lanes, plus one turning lane and two access lanes (min/preferred)	136'/171'
Driveway Access	Not permitted in central lanes; permitted in access lanes
Pedestrian facility type	Sidewalk
(B) Bicycle facility type	
Central lanes (optional)	Bike lane/cycle track
Access lanes (preferred)	Shared
Median (optional)	Multi-use path
Freight movement (generally)	Regional truck route

### Vehicular Way

(C) Number of travel lanes	4 to 6 central lanes; 2 access lanes
(D) Travel lane width	
Central lanes (min/max)	10'/12'
Access lanes (min/max)	10'/11'
(E) Median	Required
Turning lane	Optional
Curb Parking	Not required in central lanes; required in access lanes
(F) Parallel curb parking width (min/max)	7'/8'

### Pedestrian Way

(G) Total pedestrian way width (min/preferred)	12'/21.5'
(H) Frontage zone (min/preferred)	2'/3'
(I) Throughway zone (min/preferred)	6'/10'
(J) Edge and furnishing zones (min/preferred)	4'/8.5'
(K) Extension zone, if provided (max)	Width of the parking lane

# Article 11. Administration & Approvals

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## 11.1 REVIEW BODIES AND ADMINISTRATORS

This section describes the powers and duties of the review bodies and ordinance administrators. A review body is a body of the City of Buffalo that exercises decision-making authority or makes recommendations, pursuant to this Ordinance. An ordinance administrator is an official of the City of Buffalo that exercises regulatory authority, makes recommendations, provides staff support, and/or has duties, pursuant to this Ordinance.

### 11.1.1 Establishment

Review bodies and ordinance administrators are established by the City Charter, except as follows:

- A.** The Zoning Board of Appeals is established by Article 13 of this Ordinance.
- B.** The Zoning Administrator is designated by the Executive Director of Strategic Planning, established by the City Charter

### 11.1.2 Powers and Duties

Table 11A: Application Review summarizes which review body and/or ordinance administrator makes recommendations or decisions on each application. Specific powers and duties for each review body and ordinance administrator are detailed below.

- A. Common Council.** The Common Council has the following powers, pursuant to this Ordinance:
  - 1.** To hear and make decisions on text amendments.
  - 2.** To hear and make decisions on Zoning Map amendments.
  - 3.** To hear and make decisions on special use permits.
  - 4.** To hear and make decisions on adaptive reuse permits.
  - 5.** To hear and make decisions on planned unit developments.

- 6.** To review and make decisions on major encroachment permits.

- B. City Planning Board.** The City Planning Board has the following powers, pursuant to this Ordinance:

- 1.** To make recommendations to the Common Council on text amendments.
- 2.** To make recommendations to the Common Council on Zoning Map amendments.
- 3.** To make recommendations to the Common Council on special use permits.
- 4.** To make recommendations to the Common Council on adaptive reuse permits.
- 5.** To hear and make decisions on major site plan review.
- 6.** To make recommendations to the Common Council on planned unit developments.
- 7.** To make recommendations to the Commissioner of Public Works, Parks, and Streets on thoroughfare plans.
- 8.** To hear and make decisions on minor subdivisions and major subdivisions.

- C. Zoning Board of Appeals.** The Zoning Board of Appeals has the following powers, pursuant to this Ordinance:

- 1.** To hear and make decisions on zoning variances.
- 2.** To hear and make decisions on administrative appeals.

- D. Zoning Administrator**

- 1.** The Zoning Administrator, or his/her designee, has the following powers and duties, pursuant to this Ordinance:
  - a.** To review and make decisions on minor site plan review.
  - b.** To make recommendations to the Commissioner of Permit and Inspection Services on written interpretations.

2. The Zoning Administrator, or his/her designee, has the following administrative duties, pursuant to this Ordinance:
  - a. To receive applications and review applications for completeness for all matters decided by the Zoning Administrator, City Planning Board, and Zoning Board of Appeals.
  - b. To staff pre-application conferences and, if required, arrange for public notice for matters reviewed by the Zoning Administrator, City Planning Board, and Zoning Board of Appeals.
  - c. To maintain permanent and current records, as required by law, regarding all matters reviewed by the Zoning Administrator, City Planning Board, and Zoning Board of Appeals, and to file decisions with the City Clerk.
  - d. To furnish annual reports on the performance of this Ordinance.

**E. Commissioner of Permit and Inspection Services**

1. The Commissioner of Permit and Inspection Services, or his/her designee, has the following powers, pursuant to this Ordinance:
  - a. To review and make decisions on sign permits.
  - b. To review and make decisions on temporary use permits.
  - c. To make decisions on written interpretations.
  - d. To review and make decisions on exempt alteration of lots.
2. The Commissioner of Permit and Inspection Services, or his/her designee, has the following administrative duties, pursuant to this Ordinance:
  - a. To receive applications, review applications for completeness, and staff

pre-application conferences all matters reviewed by the Commissioner of Permit and Inspection Services.

- b. To register, and identify all required City approvals for, projects requiring an application under this Ordinance.
- c. To maintain permanent and current records, as required by law, regarding all matters decided by the Commissioner of Permit and Inspection Services.
- d. To verify compliance of all applications with the rules and procedures of this Ordinance, including any conditions on approvals imposed by the Common Council, City Planning Board, or Zoning Board of Appeals, concurrent with the issuance of a building permit or certificate of occupancy.
- e. To conduct inspections of structures, uses, and land to determine compliance with this Ordinance and, in the case of any violation, to order corrective action.

**F. Commissioner of Public Works, Parks, and Streets**

1. The Commissioner of Public Works, Parks, and Streets, or his/her designee, has the following powers, pursuant to this Ordinance:
  - a. To review and make decisions on minor encroachment permits.
  - b. To review and make recommendations to the Common Council on major encroachment permits.
  - c. To review and make decisions on curb cut permits.
  - d. To review and make decisions on right-of-way work permits.
  - e. To review and make decisions on tree work permits.
  - f. To review and make decisions on thoroughfare plans.

2. The Commissioner of Public Works, Parks, and Streets, or his/her designee, has the following administrative duties, pursuant to this Ordinance:
  - a. To receive applications, review applications for completeness, staff pre-application conferences for all matters reviewed by the Commissioner of Public Works, Parks, and Streets.
  - b. To maintain permanent and current records, as required by law, regarding all matters reviewed by the Commissioner of Public Works, Parks, and Streets.
  - c. To conduct inspections of City rights-of-way and City parks to determine compliance with this Ordinance and, in the case of any violation, to order corrective action.

**G. City Clerk.** The City Clerk, or his/her designee, has the following administrative duties, pursuant to this Ordinance:

1. To receive applications, review applications for completeness, and, if required, arrange for public notice for all matters decided by the Common Council.
2. To maintain permanent and current records, as required by law, regarding all matters decided by the Common Council, and to file decisions of the Common Council.
3. To receive and record all decisions and certificates related to this Ordinance, as required by law.
4. To maintain and make available the official copies of the Unified Development Ordinance and Zoning Map.

TABLE 11A: APPLICATION REVIEW

APPLICATION	SCOPE	RECOMMENDATION	DECISION
Text Amendment	Approve change to UDO text	City Planning Board	Common Council
Zoning Map Amendment	Approve change to Zoning Map	City Planning Board	Common Council
Special Use Permit	Approve uses that require discretionary review	City Planning Board	Common Council
Adaptive Reuse Permit	Permit additional uses for qualifying historic structures	City Planning Board	Common Council
Zoning Variance	Grant relief from zone regulations		Zoning Board of Appeals
Minor Site Plan Review	Review minor development applications for compliance		Zoning Administrator
Major Site Plan Review	Review major development applications for compliance		City Planning Board
Planned Unit Development	Approve planned unit developments	City Planning Board	Common Council
Sign Permit	Approve an application for a sign		Commissioner of Permit and Inspection Services
Temporary Use Permit	Authorize an application for a temporary use and/or structure		Commissioner of Permit and Inspection Services
Written Interpretation	Interpret Ordinance standards	Zoning Administrator	Commissioner of Permit and Inspection Services
Administrative Appeal	Appeal a decision of an Ordinance administrator		Zoning Board of Appeals
Minor Encroachment Permit	Approve an application for a minor encroachment into the public right-of-way		Commissioner of Public Works, Parks, and Streets
Major Encroachment Permit	Approve an application for a major encroachment into the public right-of-way	Commissioner of Public Works, Parks, and Streets	Common Council
Curb Cut Permit	Approve an application for a curb cut		Commissioner of Public Works, Parks, and Streets
Right-of-Way Work Permit	Approve an application for work or activity within an existing or proposed public right-of-way		Commissioner of Public Works, Parks, and Streets
Tree Work Permit	Approve an application for planting, pruning, removal, and/or protection of trees in a public park or public right-of-way		Commissioner of Public Works, Parks, and Streets
Thoroughfare Plan	Review plans for new or reconstructed thoroughfares	City Planning Board	Commissioner of Public Works, Parks, and Streets
Minor Subdivision	Approve division of lot into up to nine lots, or consolidation of up to nine lots		City Planning Board
Major Subdivision	Approve all other divisions and consolidations of land		City Planning Board

## 11.2 COMMON PROCEDURES

### 11.2.1 Application

#### A. Registration

1. All projects for which an application is required under this Ordinance must be registered with the Department of Permit and Inspection Services. All approvals required under this Ordinance will be identified and all appropriate application forms will be available, upon registration.

#### B. Filing

1. All applications must be submitted to the appropriate ordinance administrator on forms provided by the Department of Permit and Inspection Services.
2. Prior to formal submittal of an application, the applicant may request a pre-application conference with the appropriate ordinance administrator. The purpose of the pre-application conference, which does not require a formal application or fees, is to provide informal advice and assistance to the applicant. Any opinions or advice provided are not binding with respect to any official action that may be taken on the application. In the case of a major subdivision application, the pre-application conference is mandatory.

#### C. Fees

1. Upon formal submittal of an application, any applicable fees must be paid in accordance with Chapter 175 of the City Code. Fees are required for the following applications:
  - a. Zoning Map Amendment
  - b. Special Use Permit
  - c. Adaptive Reuse Permit
  - d. Zoning Variance
  - e. Minor Site Plan Review
  - f. Major Site Plan Review

- g. Planned Unit Development
- h. Temporary Use Permit
- i. Administrative Appeal
- j. Encroachment Permit
- k. Curb Cut Permit
- l. Right-of-Way Work Permit
- m. Exempt Alteration of Lots
- n. Minor Subdivision
- o. Major Subdivision

#### D. Determination of Completeness

1. The application will be examined by the appropriate ordinance administrator within 14 days of submittal. If the appropriate ordinance administrator finds that the application does not include all submittal requirements and is incomplete, the application will be rejected, accompanied by a written statement establishing the reasons for the rejection.
2. An application is not considered complete until all necessary forms, including forms relevant to the SEQRA process, are completed and all fees are paid, including fees for costs incurred by the City for notice.

#### E. Substantive Changes

1. After an application is determined to be complete, any substantive change made by the applicant may require re-submittal of the entire application and a determination of completeness. If the appropriate ordinance administrator determines an application re-submittal, in whole or part, is necessary, the payment of additional fees is not required.
2. Once the application is under consideration by the appropriate review body, additional information or revisions requested during review do not constitute a substantive change to the application.

TABLE 11B: NOTICE

APPLICATION	PUBLISHED NOTICE	MAILED NOTICE	POSTED NOTICE
Text Amendment	●		
Zoning Map Amendment	●	●	●
Special Use Permit	●	●	●
Adaptive Reuse Permit	●	●	●
Zoning Variance	●	●	●
Minor Site Plan Review <sup>1</sup>			●
Major Site Plan Review	●	●	●
Planned Unit Development	●	●	●
Thoroughfare Plan	●		
Administrative Appeal <sup>2</sup>	●	●	
Minor Subdivision	●		
Major Subdivision	●		●

● Required

1. Posted notice for a minor site plan review is required only for new construction of a principal building in an N-2C, N-2E, N-3C, or N-3E zone.  
 2. Mailed notice for an administrative appeal is required only if it was required for the original application.

**F. Agency Reports.** After an application is determined to be complete, it will be scheduled for consideration by the appropriate review body. The application may be forwarded to the Buffalo Sewer Authority, Buffalo Water Board, and Commissioner of Public Works, Parks, and Streets, if applicable, for a report. Reports from these agencies must be forwarded to the appropriate review body within 14 days of the determination of completeness.

**G. Withdrawal.** An application may be withdrawn at any time prior to the final decision on the application. The applicant is not eligible for a refund of fees. Requests for withdrawal must be made in writing by the applicant to the appropriate ordinance administrator.

**H. Successive Applications**

1. A disapproved application may not be reconsidered for a minimum of one year from the date of denial, unless substantial new evidence is submitted by the applicant, or a significant mistake of law or of fact was made in the prior disapproval, that justifies reconsideration of the application. If the application is resubmitted earlier than one year from the date of disapproval, the subsequent application must include a detailed statement of the grounds justifying its consideration.
2. If the appropriate ordinance administrator finds that there are no new grounds for consideration of the application, he/she will summarily, and without hearing, deny the request.

**11.2.2 Notice**

Table 11B: Notice summarizes which types of applications require published, mailed, and posted notice. If an application is not listed, this indicates notice is not required for that application.

**A. Published Notice**

1. The appropriate ordinance administrator is responsible for published notice.
2. When published notice is required, it must be published at least ten days prior to the date of the required public hearing or meeting in an official newspaper or a newspaper of general circulation in the City.
3. The published notice must include:
  - a. A description of the application type and brief summary of the approval sought.
  - b. The current zone of the subject property, if applicable.
  - c. A legal description or street address of the subject property, if applicable.
  - d. The time, date, and location of the public hearing or meeting.

- e. A phone number and email address to contact the City for information.
- f. A statement that interested parties may appear at the public hearing or meeting.
- g. If additional information is available online, the appropriate website address.

**B. Mailed Notice**

1. The appropriate ordinance administrator is responsible for mailed notice.
2. When mailed notice is required, it must be mailed at least ten days prior to the public hearing or meeting. Mailed notice must be sent by first class mail to the property owner of the subject property, as well as all property owners within 400 feet of the property line of the subject property. The mailed notice must include:
  - a. A description of the application type and brief summary of the approval sought.
  - b. The current zone of the subject property.
  - c. A legal description or street address of the subject property.
  - d. The time, date, and location of the public hearing or meeting.
  - e. A phone number and email address to contact the City for information.
  - f. A statement that interested parties may appear at the public hearing or meeting.
  - g. If additional information is available online, the appropriate website address.

**C. Posted Notice**

1. The applicant is responsible for posted notice. Signs for posting must be a minimum of 12 square feet in area and should be clearly visible from and, where possible, within 10 feet of the principal thoroughfare.
2. When posted notice is required, it must be

posted on the property at least ten days prior to the public hearing and removed upon the closing of the public hearing. In the case of a Minor Site Plan Review, notice must be posted on the property at least 10 days prior to the date that the Zoning Administrator makes a decision and removed once a decision has been made. When an application involves multiple properties, signs must be placed in all locations determined by the appropriate ordinance administrator.

3. The posted notice must include:
  - a. A description of the application type and brief summary of the approval sought.
  - b. A phone number and email address to contact the City for information.
  - c. If additional information is available online, the appropriate website address.

**D. Electronic Notice.** To the extent practicable, electronic notice by website and/or email will be provided by the appropriate ordinance administrator. Electronic notice is considered a courtesy, and any defect in or failure to provide electronic notice is not a basis for declaring any decision invalid.

**E. Additional Notice.** Notice given pursuant to this section does not prevent the applicant from giving any additional notice he/she may deem appropriate.

**F. Notice Defects.** Minor defects in notice do not impair the notice or invalidate proceedings if a bona fide attempt has been made to comply with applicable notice requirements.

**G. Post-Notice Examination.** After notice is given as required in this section and prior to any decision being made on the application, any person may, upon reasonable request, examine the application and all related documents on file with the appropriate ordinance administrator pertaining to the subject matter of the notice. Any person is entitled to copies of the application and documents upon reasonable request and

payment of a fee, as established in the City Code, to cover the cost of such copies.

**11.2.3 Public Hearing**

Table 11C: Public Hearing summarizes which types of applications require a public hearing. If an application is not listed, this indicates that a public hearing is not required for that application.

- A. Conduct of the Public Hearing.** The public hearing will be conducted in accordance with any and all applicable requirements of the General City Law and the rules and regulations of the body conducting the hearing.
- B. Continuances.** The body conducting the hearing, upon a majority vote of its members, may continue a public hearing. No new notice is required to reopen the public hearing if the hearing is continued to a date specific, provided that a public announcement of the future date, time, and place of the continued hearing is made at the first hearing and recorded in the minutes.

**11.2.4 Filing**

Decisions will be filed by the appropriate ordinance administrator, as required by law, with the Office of the City Clerk within five business days after the decision is made, with a copy mailed to the applicant.

TABLE 11C: PUBLIC HEARING

APPLICATION	CITY PLANNING BOARD	ZONING BOARD OF APPEALS	COMMON COUNCIL
Text Amendment			●
Zoning Map Amendment			●
Special Use Permit			●
Adaptive Reuse Permit			●
Zoning Variance		●	
Major Site Plan Review	●		
Planned Unit Development			●
Administrative Appeal		●	
Minor Subdivision	●		
Major Subdivision	●		

● Required

TEXT AMENDMENT



## 11.3 ZONING APPROVALS

### 11.3.1 Text Amendment

- A. Description.** A text amendment allows for amendment of the regulations imposed by this Ordinance in response to changed conditions or changes in City policy.
- B. Initiation**
  - 1. The Common Council, City Planning Board, Executive Director of Strategic Planning, Commissioner of Permit and Inspection Services, or Commissioner of Public Works, Parks, and Streets may initiate a text amendment.
  - 2. A property owner may petition the City to initiate a text amendment.
  - 3. The property owners of fifty percent or more of the frontage in any zone or part thereof may present a petition duly signed and acknowledged, to the Common Council, requesting an amendment, supplement, change or repeal of the regulations prescribed for such zone or part thereof.
- C. Authority.** The Common Council, after receiving a recommendation from the City Planning Board, must take action on requests for text amendments.
- D. Procedure**
  - 1. A text amendment application must be filed with the City Clerk in accordance with Section 11.2.1. Once it is determined that the application is complete, the City Clerk must forward the application to the City Planning Board.
  - 2. Within 30 days of the determination of completeness, the City Planning Board must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Common Council.

3. Within 62 days of the determination of completeness, the Common Council must hold a public hearing on the proposed text amendment. Notice of the public hearing is required in accordance with Section 11.2.2.
4. Within 62 days of the closing of the public hearing, the Common Council must approve, approve with modifications, or disapprove the application.
5. If a protest of the proposed text amendment is presented to the Common Council a minimum of 24 hours before the scheduled public hearing, approval of the amendment requires a three-fourths vote of the Common Council. The protest must be signed by the property owners of 20% or more of the area of land included in the proposed change, or the property owners of 20% or more of the area of land immediately adjacent to the land included in the proposed change, or the property owners of 20% or more of the area of land immediately across a public right-of-way and within 100 feet of the land included in the proposed change.

**E. Approval Standards.** A text amendment is a matter of legislative discretion that is not controlled by any one of the following standards, but rather on a balancing of these standards. The City Planning Board must make written findings of fact on, and the Common Council must consider, the following criteria:

1. The proposed text amendment is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
2. The proposed text amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy.
3. The proposed text amendment does not create an undue number of nonconformities.
4. The proposed text amendment promotes the public health, safety, and welfare of the City.

MAP AMENDMENT



11.3.2 Zoning Map Amendment

**A. Description.** A Zoning Map amendment allows for amendment of the Zoning Map in response to changed conditions or changes in City policy.

**B. Initiation**

1. The Common Council, City Planning Board, or Executive Director of Strategic Planning may initiate a Zoning Map amendment.
2. A property owner, or person expressly authorized by the property owner in writing, may initiate a Zoning Map amendment for his/her property.
3. The property owners of fifty percent or more of the frontage in any zone or part thereof may present a petition duly signed and acknowledged, to the Common Council, requesting an amendment, supplement, change or repeal of the regulations prescribed for such zone or part thereof.

**C. Authority.** The Common Council, after receiving a recommendation from the City Planning Board, must take action on requests for a Zoning Map amendment.

**D. Procedure**

1. A Zoning Map amendment application must be filed, including payment of the applicable fee, with the City Clerk in accordance with Section 11.2.1. Once it is determined that the application is complete, the City Clerk must forward the application to the City Planning Board.
2. Within 30 days of receipt of the determination of completeness, the City Planning Board must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Common Council.
3. Within 62 days of the determination of completeness, the Common Council must hold a public hearing on the proposed

Zoning Map amendment. Notice of the public hearing is required in accordance with Section 11.2.2.

4. Within 62 days of the closing of the public hearing, the Common Council must approve, approve with modifications, or disapprove the application.
5. If a protest of the proposed Zoning Map amendment is presented to the Common Council a minimum of 24 hours before the scheduled public hearing, approval of the amendment requires a three-fourths vote of the Common Council. The protest must be signed by the property owners of 20% or more of the area of land included in the proposed change, or the property owners of 20% or more of the area of land immediately adjacent to the land included in the proposed change, or the property owners of 20% or more of the area of land immediately across a public right-of-way and within 100 feet of the land included in the proposed change.

**E. Approval Standards.** A Zoning Map amendment is a matter of legislative discretion that is not controlled by any one of the following standards, but rather on a balancing of these standards. The City Planning Board must make written findings of fact on, and the Common Council must consider, the following criteria:

1. The proposed Zoning Map amendment is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
2. The proposed Zoning Map amendment is compatible with the existing form, pattern, use, and zoning of nearby property.
3. The proposed Zoning Map amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy.
4. The proposed Zoning Map amendment is consistent with the trend of development, if any, in the general area of the property in question.

5. The proposed Zoning Map amendment promotes the public health, safety, and welfare of the City.

**SPECIAL USE PERMIT**



**11.3.3 Special Use Permit**

- A. Description.** A special use permit allows certain uses that have increased potential for incompatibility in a zone to be carefully reviewed to determine, against fixed standards, whether their establishment on any given site should be allowed. These uses may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the local impact and effect.
- B. Initiation.** A property owner, or person expressly authorized by the property owner in writing, may initiate a special use permit.
- C. Authority.** The Common Council, after receiving a recommendation from the City Planning Board, must take action on requests for a special use permit.
- D. Procedure**
  - 1.** A special use permit application must be filed, including payment of the applicable fee, with the City Clerk in accordance with Section 11.2.1. Once it is determined that the application is complete, the City Clerk must forward the application to the City Planning Board.
  - 2.** Within 30 days of receipt of the determination of completeness, the City Planning Board must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Common Council.
  - 3.** Within 62 days of the determination of completeness, the Common Council must hold a public hearing on the proposed special use permit. Notice of the public hearing is required in accordance with Section 11.2.2.
  - 4.** Within 62 days of the closing of the public hearing, the Common Council must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the Common Council.

**E. Approval Standards.** The City Planning Board must make written findings of fact on, and the Common Council decision must consider, the following criteria:

1. The proposed use is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
2. The proposed use will be established, maintained, and operated so as to not endanger the public health, safety, or welfare.
3. The proposed use will be established, maintained, and operated so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property in any foreseeable manner.
4. The proposed use will be of a character that does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area.
5. The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.
6. The proposed use will not result in the destruction, loss, or damage of any feature determined to be of significant natural, scenic, or historic importance.

**F. Conditions.** In granting a special use permit, reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit may be imposed. Such conditions may include, but are not limited to, limits on location, scale, intensity, design, lighting, signs, and hours of operation, or provision for recreation, open space, and buffers and screening. Failure to comply with any condition or restriction constitutes a violation of this Ordinance and, in addition to any other civil or criminal remedy or enforcement procedure, is grounds for modification, suspension, or revocation of the special use permit.

**G. Modifications to Approved Permits.** No use allowed

by a special use permit may be enlarged or increased in intensity without approval of a new special use permit. The Commissioner of Permit and Inspection Services may, however, allow for an exception to this restriction for the following cases:

1. A minor change due to engineering or other physical site circumstances not foreseen at the time of approval, but encountered during construction.
2. An increase in gross floor area of 10% or less, so long as the increase in gross floor area does not exceed the maximum gross floor area requirement, if any, of the zone in which the project is located.
3. The addition of any accessory structure customarily found in association with the use allowed by the special use permit.

**H. Expiration**

1. The special use permit expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
2. The Common Council may extend the time for expiration of an approved special use permit for one year upon a showing of good cause by the applicant. A request for extension must be made in writing to the City Clerk within the original period of validity.
3. Any use approved by a special use permit, that ceases operation for a continuous period of one year, will be considered abandoned and the special use permit will thereby expire.

**I. Revocation**

1. The Common Council may revoke a special use permit after finding that any one of the following has occurred:
  - a. The licenses or permits required for the

operation or maintenance of the use are terminated.

- b.** Any of the provisions of this Ordinance or any of the conditions and restrictions of the special use permit are violated.
- 2.** The Common Council must hold a public hearing to confirm the revocation of the special use permit. Notice for the public hearing is required in accordance with Section 11.2.2, as required for the original approval. The applicant and property owner must be notified of the public hearing. Following the public hearing, the Common Council will make its decision.

ADAPTIVE REUSE PERMIT



11.3.4 Adaptive Reuse Permit

- A. Description.** An adaptive reuse permit allows for certain historic buildings to be adapted for new uses that may not otherwise be allowed in the zone.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate an adaptive reuse permit.
- C. Applicability.** The applicant is eligible to apply for an adaptive reuse permit only if both of the following criteria are met:
  1. The application applies to a building of at least 5,000 square feet in gross floor area; and that is a local landmark or is a contributing structure to a local historic district, or is listed on, or determined by the State Office of Historic Preservation to be individually eligible for, the National Register of Historic Places, or is a contributing structure to a National Register historic district.
  2. The application seeks approval for any use allowed within the Ordinance, with the exception of the following uses: halfway house; rooming house/S.R.O.; adult establishment; car wash; drive-through facility; gas station; human service facility; kennel; retail and service, heavy; vehicle repair, major or minor; industrial, light or heavy; junk/salvage yard; recycling facility; storage yard; vehicle rental or sales; warehouse/distribution; waste transfer station; freight terminal; heliport; helipad; parking lot, commercial or neighborhood; parking structure; railway facilities; stables; truck stop; and utilities and services, minor and major.
- D. Authority.** The Common Council, after receiving a recommendation from the City Planning Board, must take action on requests for an adaptive reuse permit.

**E. Procedure**

1. An adaptive reuse permit application must be filed, including payment of the applicable fee, with the City Clerk in accordance with Section 11.2.1. Once it is determined that the application is complete, the City Clerk must forward the application to the City Planning Board.
2. Within 30 days of the determination of completeness, the City Planning Board must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Common Council.
3. Within 62 days of the determination of completeness, the Common Council must hold a public hearing on the proposed adaptive reuse permit. Notice of the public hearing is required in accordance with Section 11.2.2.
4. Within 62 days of the closing of the public hearing, the Common Council must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the Common Council.

**F. Approval Standards.** The City Planning Board must make written findings of fact on, and the Common Council decision must consider, the following criteria:

1. The proposed use is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
2. The proposed use will be established, maintained, and operated so as to not endanger the public health, safety, or welfare.
3. The proposed use will be established, maintained, and operated so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property in any foreseeable manner.

4. The proposed use will be of a character that does not produce noise, odors, glare, and/or vibration that adversely affect the surrounding area.
5. The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.
6. The proposed use will not result in the destruction, loss, or damage of any feature determined to be of significant natural, scenic, or historic importance.

**G. Conditions.** In granting an adaptive reuse permit, reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit may be imposed. Such conditions may include, but are not limited to, limits on location, scale, intensity, design, lighting, signs, and hours of operation, or provision for recreation, open space, and buffers and screening. Failure to comply with any condition or restriction constitutes a violation of this Ordinance and, in addition to any other civil or criminal remedy or enforcement procedure, is grounds for modification, suspension, or revocation of the adaptive reuse permit.

**H. Modifications to Approved Permits.** No use allowed by an adaptive reuse permit may be enlarged or increased in intensity without approval of a new adaptive reuse permit. The Commissioner of Permit and Inspection Services may, however, allow for an exception to this restriction for the following cases:

1. A minor change due to engineering or other physical site circumstances not foreseen at the time of approval, but encountered during construction.
2. An increase in gross floor area of 10% or less, so long as the increase in gross floor area does not exceed the maximum gross floor area requirement, if any, of the zone in which the project is located.
3. The addition of any accessory structure customarily found in association with the use allowed by the adaptive reuse permit.

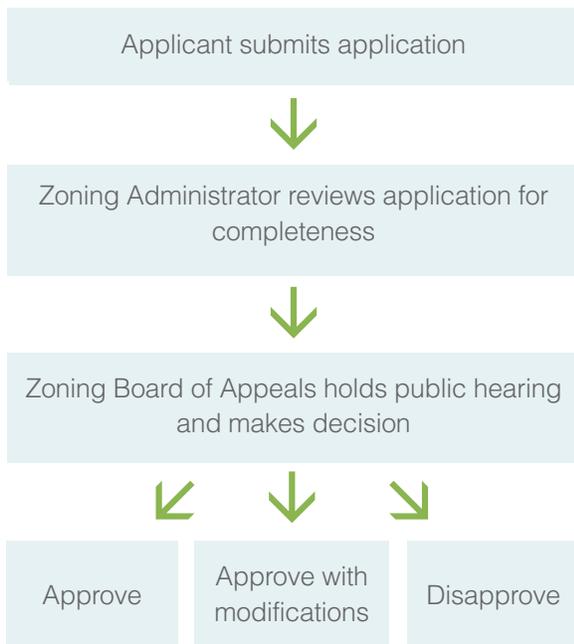
**I. Expiration**

- 1.** The adaptive reuse permit expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
- 2.** The Common Council may extend the time for expiration of an approved adaptive reuse permit for one year upon a showing of good cause by the applicant. A request for extension must be made in writing to the City Clerk within the original period of validity.
- 3.** Any use approved by a adaptive reuse permit, that ceases operation for a continuous period of one year, will be considered abandoned and the adaptive reuse permit will thereby expire.

**J. Revocation**

- 1.** The Common Council may revoke an adaptive reuse permit after finding that any one of the following has occurred:
  - a.** The licenses or permits required for the operation or maintenance of the use are terminated.
  - b.** Any of the provisions of this Ordinance or any of the conditions and restrictions of the adaptive reuse permit are violated.
- 2.** The Common Council must hold a public hearing to confirm the revocation of the adaptive reuse permit. Notice for the public hearing is required in accordance with Section 11.2.2, as required for the original approval. The applicant and property owner must be notified of the public hearing. Following the public hearing, the Common Council will make its decision.

ZONING VARIANCE



11.3.5 Zoning Variance

- A. Description.** A zoning variance allows a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create practical difficulties or particular hardships. There are two types of zoning variance:
  - 1. Use Variance.** A use variance is the authorization by the Zoning Board of Appeals for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning regulations.
  - 2. Area Variance.** An area variance is the authorization by the Zoning Board of Appeals for the use of land in a manner that is not allowed by the dimensional or physical requirements of the applicable zoning regulations.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate a zoning variance.
- C. Authority.** The Zoning Board of Appeals must review and take action on zoning variances.
- D. Procedure**
  - 1.** A zoning variance application must be filed, including payment of the applicable fee, with the Zoning Administrator in accordance with the requirements of Section 11.2.1. Once it is determined that the application is complete, the Zoning Administrator must forward the application to the Zoning Board of Appeals.
  - 2.** Within 62 days of the determination of completeness, the Zoning Board of Appeals must hold a public hearing on the proposed zoning variance. Notice of the public hearing is required in accordance with Section 11.2.2.
  - 3.** Within 62 days of the closing of the public hearing, the Zoning Board of Appeals must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the Zoning Board of Appeals.

## E. Approval Standards

### 1. Use Variance

- a.** No use variance may be granted by the Zoning Board of Appeals without making written findings of fact showing that applicable zoning regulations and restrictions have caused the applicant unnecessary hardship. In order to prove such unnecessary hardship, the applicant must demonstrate to the Zoning Board of Appeals that for each and every allowed use under the zoning regulations for the particular zone where the property is located:
  - i.** The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - ii.** The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the zone or neighborhood;
  - iii.** The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - iv.** The alleged hardship has not been self-created.
- b.** The Zoning Board of Appeals, in the granting of use variances, must grant the minimum variance deemed necessary and adequate to address the unnecessary hardship proved by the applicant and at the same time preserve and protect the character of the neighborhood and the public health, safety, and welfare.

### 2. Area Variance

- a.** In making its determination, the Zoning Board of Appeals must make written findings of fact that take into account the benefit to the applicant if the variance

is granted as weighed against the detriment to the public health, safety, and welfare by the approval of the variance. In making this determination the Zoning Board of Appeals must also consider:

- i.** Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
- ii.** Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.
- iii.** Whether the requested area variance is substantial.
- iv.** Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zone.
- v.** Whether the alleged difficulty was self-created, which consideration must be relevant to the decision of the Zoning Board of Appeals, but does not necessarily preclude the granting of the variance.
- b.** The Zoning Board of Appeals, in the granting of area variances, must grant the minimum variance that it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

**F. Conditions.** In granting a zoning variance, the Zoning Board of Appeals may impose reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property.

**G. Rehearing.** An aggrieved party may petition for a rehearing of a matter on which the Zoning Board

of Appeals has already once made a decision. A motion for the Zoning Board of Appeals to hold a rehearing to review such an order, decision, or determination, not previously reheard, may be made by any member of the Zoning Board of Appeals. Rehearings may only take place as follows:

1. A unanimous vote of all members of the Zoning Board of Appeals then present is required for such rehearing to occur.
2. A rehearing is subject to the same notice provisions as an original hearing.
3. Upon a rehearing, the Zoning Board of Appeals may reverse, modify, or annul its original order, decision, or determination only upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision, or determination will not be prejudiced thereby.

#### H. Expiration

1. The zoning variance expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
2. The Zoning Board of Appeals may extend the time for expiration of an approved zoning variance for one year upon a showing of good cause by the applicant. A request for extension must be made in writing to the Zoning Administrator within the original period of validity.
3. Any use approved by a variance, that ceases operation for a continuous period of one year, will be considered abandoned and the variance will thereby expire.

MINOR SITE PLAN REVIEW



11.3.6 Minor Site Plan Review

- A. Description.** Minor site plan review allows for review of the site design of routine development applications that are eligible to be processed administratively.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate a minor site plan review.
- C. Applicability.** Minor site plan review is required prior to a building permit being issued for any development project which meets or exceeds the below thresholds. In no case, however, does it apply to applications which are subject to major site plan review.
  1. New construction of a principal building.
  2. A 2,500 square foot or more increase in gross floor area to an existing principal building.
  3. Substantial renovation of any principal building which is at least 10,000 square feet in gross floor area, other than a principal building in the D-S, D-C, D-IL, D-IH, or C-R zones.
  4. Substantial facade alteration to the front or corner side facades of a principal building, other than:
    - a. A single-unit or double-unit dwelling.
    - b. A principal building in the D-S, D-C, D-IL, D-IH, or C-R zones.
  5. New construction or reconstruction of a parking lot of between six and 49 spaces.
  6. New construction of a loading area containing up to two loading berths.
- D. Submittals.** Minor site plan review applications must include a site plan, drawn to a scale of at least one inch equals 30 feet, on one or more sheets, stamped by a New York State licensed architect, landscape architect, engineer, or surveyor, that contains the information listed below. The Zoning Administrator may waive submittal requirements for site plans where

such information is not necessary to determine the nature of the development or where the development meets relevant approval criteria.

1. Name, address, telephone number, and email address of the applicant and the person or firm preparing the site plan.
2. Evidence of site control.
3. Date of preparation, clear scale, and north arrow.
4. Statement of intent that describes the project.
5. Project boundaries, including total area of the site.
6. Existing zoning and proposed use.
7. The dimension of lots, property lines, and adjacent rights-of-way on the subject property.
8. Relationship of the subject property to adjacent public infrastructure, including sidewalks, roadways, street lighting, street trees, traffic control devices, right-of-way signs, catch basins and inlets, parks and dedicated open spaces, water and sewer services, and any other structures in the right-of-way.
9. Location of any existing water bodies, wetlands, floodplains, shoreline buffers, steep slopes (slopes in excess of 15%), or federal or state designated significant habitats on and within 200 feet of the site.
10. Location of any designated local, state, or national landmark or historic district on and within 200 feet of the site.
11. Existing and proposed improvements on the site, including structures, easements, vehicular and pedestrian access, landscape, established trees (six inch DBH or more), fences or walls, stormwater facilities, lighting, parking and loading facilities, and signs, as applicable.

12. Detailed architectural drawings, drawn to a scale of at least one inch equals four feet.
13. A landscape plan, if required by this Ordinance.
14. A Stormwater Pollution Prevention Plan (SWPPP), if required by this Ordinance.
15. A lighting plan, if required by this Ordinance.
16. Identification of any necessary federal, state, and county permits required for execution of the project.
17. Such other information as the Zoning Administrator may deem necessary for proper consideration of the application, such as reports or other relevant documentation prepared by appropriate professionals.

**E. Authority.** The Zoning Administrator must review and take action on requests for a minor site plan review.

**F. Procedure**

1. A minor site plan application must be filed, including payment of the applicable fee, with the Zoning Administrator in accordance with Section 11.2.1.
2. Within 30 days of the determination of completeness, the Zoning Administrator must approve, approve with modifications, or disapprove the application. This 30 day period may be extended only by mutual consent of the applicant and the Zoning Administrator, or the Zoning Administrator may direct the applicant to resubmit the application as a major site plan, per the below.
3. The Zoning Administrator may, at his/her discretion, determine that, because of its nature, a proposed minor site plan must be resubmitted as a major site plan to the City Planning Board. No additional fees apply.
4. If the Zoning Administrator approves the site plan subject to certain conditions or

minor modifications, all plans and drawings submitted as part of the building permit application must reflect those conditions or minor modifications.

**G. Approval Standards.** The Zoning Administrator must make written findings of fact on the following criteria:

1. The project complies with all applicable standards of this Ordinance.
2. The project is sufficiently served by or provides services, utilities, and infrastructure as required by the Buffalo Sewer Authority, Buffalo Water Board, Department of Public Works, Parks, and Streets, and Fire Department, as applicable.

**H. Conditions.** The Zoning Administrator may grant minor site plan approval with conditions only to the extent that these conditions specify the actions necessary to bring the application into complete compliance with applicable standards of this Ordinance or where additional conditions have been agreed to by the applicant.

**I. Amendments.** Amendments to approved site plans may be approved as follows:

1. Amendment applications must include a written description of the proposed change, including the reason for such change, and a notation of changes on the approved site plan. Amendment applications must be submitted to the Zoning Administrator. A revised site plan need only include those components of the submittal package impacted by the proposed change.
2. Within 30 days of the determination of completeness, the Zoning Administrator must approve, approve with modifications, or disapprove the application.
3. If the Zoning Administrator approves the site plan amendment subject to certain conditions or minor modifications, all plans and drawings submitted as part of the building permit application must reflect those conditions or minor modifications.

**J. Expiration**

1. The site plan expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
2. The Zoning Administrator may extend the time for expiration of an approved site plan for one year upon a showing of good cause by the applicant. A request for extension must be made in writing to the Zoning Administrator within the original period of validity.

**K. Appeals.** An aggrieved party may appeal the minor site plan decision of the Zoning Administrator to the Zoning Board of Appeals in accordance with Section 11.3.12. Appeals must be filed within 60 days after the filing of a decision in the office of the City Clerk.



**11.3.7 Major Site Plan Review**

- A. Description.** Major site plan review allows for discretionary review of the site configuration and architectural design of projects which, due to their magnitude, are more likely to have significant impacts on their surroundings.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate a major site plan review.
- C. Applicability.** Major site plan review is required prior to a building permit being issued for any development project which meets or exceeds the below thresholds.
  1. New construction of a principal building of at least 5,000 square feet in gross floor area, except in a case that involves the construction of only a single unit dwelling or a double unit dwelling.
  2. A 5,000 square foot or more increase in gross floor area to an existing principal building.
  3. New construction of, or additions to, principal buildings to be conducted in phases so that the total gross floor area of all phases combined is at least 5,000 square feet.
  4. New construction of a principal building of the civic building type in a neighborhood zone.
  5. New construction of a principal building on a parcel that is within, directly across a public right-of-way from, or within 150 feet of, a Historic Olmsted Park or Parkway.
  6. Any new construction of a multiple-unit dwelling in an N-2R or N-3R zone.
  7. Substantial renovation of any principal building that is at least 50,000 square feet in gross floor area and that involves a change of use, other than in the D-S, D-C, D-IL, D-IH, or C-R zones.
  8. New construction or reconstruction of a parking lot of at least 50 spaces.

9. New construction of a loading area containing at least three loading berths.
  10. The demolition of a principal building in an N-1D, N-1C, N-1S, N-2C, N-2E, N-3C, N-3E per Section 3.2.1.K.
- D. Submittals.** Major site plan review applications must include a site plan, drawn to a scale of at least one inch equals 30 feet, on one or more sheets, stamped by a New York State licensed architect, landscape architect, engineer, or surveyor, that contains the information listed below. The Zoning Administrator may waive submittal requirements for site plans where such information is not necessary to determine the nature of the development or where the development meets relevant approval criteria.
1. Name, address, telephone number, and email address of the applicant and the person or firm preparing the site plan.
  2. Evidence of site control.
  3. Date of preparation, clear scale, and north arrow.
  4. Statement of intent that describes the project.
  5. Project boundaries.
  6. Existing zoning and proposed use.
  7. The dimension of lots, property lines, and adjacent rights-of-way on the subject property.
  8. Relationship of the subject property to adjacent public infrastructure, including sidewalks, roadways, street lighting, street trees, traffic control devices, right-of-way signs, catch basins and inlets, parks and dedicated open spaces, water and sewer services, and any other structures in the right-of-way.
  9. Context of development within 100 feet of the site, including location and scale of principal buildings, and site ingress and egress points.
  10. Location of any existing water bodies, wetlands, floodplains, shoreline buffers, steep slopes (slopes in excess of 15%), or federal or state designated significant habitats on and within 200 feet of the site.
  11. Location of any designated local, state, or national landmark or historic district on and within 200 feet of the site.
  12. Existing and proposed improvements on the site, including structures, easements, vehicular and pedestrian access, landscape, established trees (six inch DBH or more), fences or walls, stormwater facilities, lighting, parking and loading facilities, and signs, as applicable.
  13. Detailed architectural drawings, drawn to a scale of one inch equals four feet, including proposed building materials.
  14. A landscape plan, if required by this Ordinance.
  15. A Stormwater Pollution Prevention Plan (SWPPP), if required by this Ordinance.
  16. A lighting plan, if required by this Ordinance.
  17. A Transportation Demand Management (TDM) plan, if required by this Ordinance.
  18. Identification of any necessary federal, state, and county permits required for execution of the project.
  19. Such other information as the Zoning Administrator or City Planning Board may deem necessary for proper consideration of the application, such as reports or other relevant documentation prepared by appropriate professionals.
- E. Authority.** The City Planning Board must review and take action on requests for a major site plan review.
- F. Procedure**
1. A major site plan review application must be

filed, including payment of the applicable fee, with the Zoning Administrator in accordance with Section 11.2.1. Once it is determined that the application is complete, the Zoning Administrator must forward the application to the City Planning Board.

2. Within 62 days of the determination of completeness, the City Planning Board must hold a public hearing on the proposed major site plan. Notice of the public hearing is required in accordance with Section 11.2.2.
3. Within 62 days of the closing of the public hearing, the City Planning Board must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the City Planning Board.
4. If the City Planning Board approves the site plan subject to certain conditions or minor modifications, all plans and drawings submitted as part of the building permit application must reflect those conditions or minor modifications.

**G. Approval Standards.** The City Planning Board must make written findings of fact on the following criteria:

1. The project complies with all applicable standards of this Ordinance.
2. The project is consistent with the spirit and intent of the Comprehensive Plan.
3. The project will be sited and designed so as to be harmonious with the surrounding area and not interfere with the development, use, and enjoyment of adjacent property.
4. The project will promote building design that responds to the surrounding neighborhood and demonstrates respect for surrounding historic resources, while allowing for a diversity of architectural styles and original and distinctive design approaches.
5. The project will ensure safe and efficient

access for all site users, including pedestrians, cyclists, transit passengers, the mobility impaired, and motor vehicles, as applicable.

6. The project will be located, designed, and/or managed to meet its anticipated travel demand, and will include reasonable efforts to minimize single-occupancy vehicle trips, reduce vehicle miles travelled, and promote transportation alternatives. If required by this Ordinance, a Transportation Demand Management (TDM) plan must be approved by the City Planning Board as evidence of the project meeting this criterion.
7. The project will provide for the adequate protection of significant natural, cultural, heritage, and scenic assets on or near the site.
8. The project contributes to existing pedestrian-oriented rights-of-way in relation to the public realm and streetscape.
9. The project will utilize plant materials that are capable of withstanding the climatic conditions of Buffalo and the microclimate of the site, and will be planted so as to maximize prospects for healthy growth.
10. The Project builds in fair housing, inclusionary, and equal opportunity initiatives of the City of Buffalo to promote access to community assets such as quality education, employment and transportation for all, without consideration of race, gender, religion, age, sexual orientation, national origin or ethnic background.
11. The project will make for the most efficient use of land and municipal services, utilities, and infrastructure.
12. The project is sufficiently served by or provides services, utilities, and infrastructure as required by the Buffalo Sewer Authority, Buffalo Water Board, Commissioner of Public Works, Parks, and Streets, and Fire Department.

**H. Conditions.** The City Planning Board may grant major site plan approval with conditions only to the extent that such conditions specify the actions necessary to bring the application into compliance with applicable regulations and requirements, and to meet the approval standards of this section.

**I. Amendments.** Amendments to approved site plans may be approved as follows:

1. Within 30 days of receipt of a complete application for a site plan amendment, the City Planning Board must determine whether the proposed amendment constitutes a substantial change to the site plan. A site plan amendment will be considered substantial if the City Planning Board determines that the proposed amendment is significant enough to warrant a change to the findings per 11.3.7.G and, potentially, the decision on the original site plan review.
2. Upon a determination that a major site plan amendment is not substantial, the City Planning Board must approve the application, including any conditions or minor modifications it may require. No public hearing or notice is required for amendments that are not determined to be substantial.
3. Within 30 days of a determination that a proposed major site plan amendment is substantial, the City Planning Board must approve, approve with modifications, or disapprove the application. Substantial amendments to approved site plans require a public hearing and notice in accordance with Section 11.2.2.
4. The City Planning Board may determine, due to the scope of proposed changes, that an application for a site plan amendment to an approved major site plan review constitutes a new application. In which case, such site plan must be processed as a new major site plan review application. New fees apply.
5. If the City Planning Board approves the site plan amendment subject to certain

conditions or minor modifications, all plans and drawings submitted as part of the building permit application must reflect those conditions or minor modifications.

**J. Expiration**

1. The site plan expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
2. The City Planning Board may extend the time for expiration of an approved site plan for one year upon a showing of good cause by the applicant. A request for extension must be submitted in writing to the Zoning Administrator within the original period of validity.

PLANNED UNIT DEVELOPMENT



11.3.8 Planned Unit Development

- A. Description.** A planned unit development allows for a defined area to be developed as a unified and integrated development and is intended to create more flexible or precise development outcomes than would be possible through the strict application of the standards of this Ordinance, helping achieve the following objectives:
1. An alternative development pattern in harmony with the objectives of the Comprehensive Plan.
  2. A creative use of land and related physical development.
  3. Diversification in the uses allowed and variation in the relationship of uses, structures, and public space in developments conceived as cohesive unified projects.
  4. Alternative or supplementary standards for site and building design.
  5. The preservation and enhancement of desirable site characteristics.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, or the Common Council, may initiate a planned unit development.
- C. Applicability.** The applicant may apply for a planned unit development only where both of the following criteria are met:
1. The application applies to a site that is under common ownership or unified control or, if there are two or more owners, all owners of the site are included as joint applicants.
  2. The application applies to a site of at least two contiguous acres.
- D. Authority.** The Common Council, after receiving a recommendation from the City Planning Board, must take action on requests for a planned unit development.
- E. Waiver or Modification of Requirements.** In

approving a planned unit development, the Common Council may waive, modify, or supplement the standards of the underlying zone, if such action furthers the objectives of this section, and the application meets all approval criteria. Waivers or modifications of existing standards may apply only to the following regulatory categories:

1. Residential density standards.
2. Lot dimensions and lot coverage.
3. Building setbacks (except for required waterfront yards, which may not be waived or modified).
4. Building height and story height.
5. Transparency and pedestrian access.
6. Exterior facade materials.
7. Specific standards that apply to the zone.
8. Principal uses and accessory uses.
9. Sign standards.

**F. Submittals.** A planned unit development application must include a plan, in written and graphic form, that contains the information listed below. The City Clerk may waive submittal requirements for plans where such information is not necessary to determine the nature of the application or where the application meets relevant approval criteria.

1. Name, address, telephone number, and email address of the applicant and the person or firm preparing the plan.
2. Evidence of site control.
3. A map giving the legal description of the property, including total acreage, lot lines and dimensions, easements, rights-of-way, utilities, structures, water bodies, and other significant natural and manmade features for the site, along with date of preparation, clear scale, and north arrow.

4. A location map that illustrates the context of the site, including the adjacent area within 500 feet.
5. A narrative description of the goals underlying the creation of the planned unit development, as well as specific waivers from or modifications of the underlying zoning that will be sought, and supplemental standards, if any, that will apply to the site.
6. A general layout of the proposed project including maps, plans, or drawings relating to proposed land uses, location and dimensions of buildings, and location and type of rights-of-way, pedestrian and bicycle circulation systems, and public spaces, including preliminary plans and profiles, at suitable scale and in such detail as may be required by the City Clerk.
7. Phases of development, including delineation of areas, building sites, land uses, and improvements to be constructed in independent phases and the scheduled timing and sequencing of development.
8. Any other information or documentation as the City Clerk may deem necessary or appropriate for proper consideration of the application.

**G. Procedure**

1. A planned unit development application must be filed, including payment of the applicable fee, with the City Clerk in accordance with Section 11.2.1. Once it is determined the application is complete, the City Clerk must forward the application to the City Planning Board.
2. Within 30 days of the determination of completeness, the City Planning Board must make a recommendation to approve, approve with modifications, or disapprove the application, and forward the application to the Common Council.
3. Within 62 days of the determination of

completeness, the Common Council must hold a public hearing on the proposed planned unit development. Notice of the public hearing is required in accordance with Section 11.2.2.

4. Within 62 days of the closing of the public hearing, the Common Council must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the Common Council.
5. Following approval of the planned unit development by the Common Council, the City Clerk must designate the area included in the application as “Planned Unit Development Number \_,” and append the map and text for the planned unit development to the official copy of this Ordinance. All subsequent applications for the use and development of the site will be subject to the provisions of the planned unit development, as well as other applicable standards of this Ordinance.

**H. Approval Standards.** The City Planning Board must make written findings of fact on, and the Common Council must take into consideration, the following criteria:

1. The planned unit development is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
2. The planned unit development allows for the creative and innovative development of property that would otherwise not be possible through strict application of the standards of this Ordinance.
3. The planned unit development will be compatible with, and not impede the normal and orderly development and improvement of, adjacent property.
4. The planned unit development will promote a coordinated site and building design to enhance the relationship of buildings to public space, the interconnectedness of

rights-of-way and blocks, and social vitality.

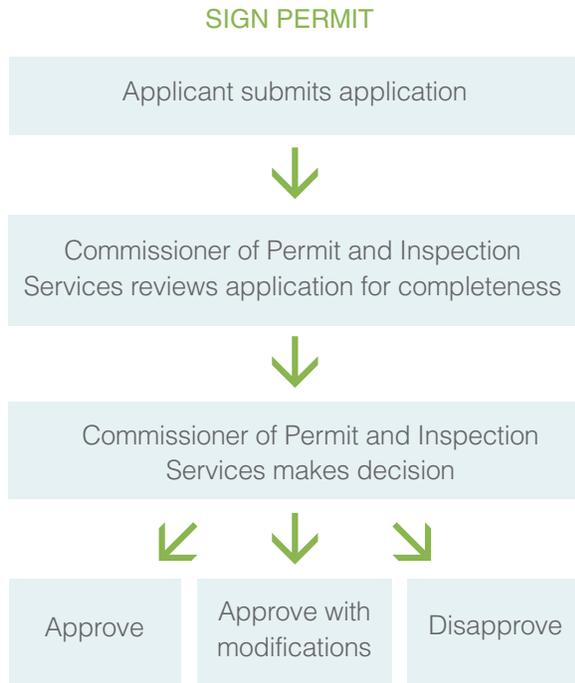
5. The planned unit development will maximize transportation efficiency.
6. Whether the planned unit development will provide for public benefits and amenities not otherwise required by this Ordinance. Examples include:
  - a. Affordable housing units.
  - b. Below-market commercial incubator space.
  - c. Green building systems and sustainable landscapes.
  - d. Adaptive reuse of heritage resources.
  - e. Reserved or dedicated open space.
  - f. Accessible buildings and sites that exceed minimum standards of the United States Access Board (USAB).
  - g. Transportation amenities that invite site users to walk, bike, and take transit.
  - h. Use of renewable energy sources.
  - i. Water conservation and reuse.
  - j. Brownfield reclamation and cleanup.
  - k. Enhancement of physical and visual access to the waterfront.
  - l. Restoration of natural features, such as wildlife habitats, native vegetation, shoreline buffers, floodplains, and wetlands.
7. The planned unit development will be sufficiently served by or provide services, utilities, and infrastructure as required by the Buffalo Sewer Authority, Buffalo Water Board, Department of Public Works, Parks, and Streets, and Fire Department.
- I. **Conditions.** In granting planned unit development approval, the City Planning Board may

recommend, and the Common Council may impose, reasonable conditions which serve to ensure that the required findings are upheld.

**J. Amendments.** Any amendment to an approved planned unit development requires submission of a revised planned unit development application in accordance with the procedures for approving the original plan.

**K. Expiration**

- 1.** The planned unit development expires within two years of the date of approval if a building permit application has not been submitted or certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
- 2.** The Common Council may extend the time for expiration of an approved planned unit development for one year upon a showing of good cause by the applicant. A request for extension must be submitted in writing to the City Clerk within the original period of validity.



### 11.3.9 Sign Permit

- A. Description.** A sign permit allows for signs to be erected, installed, reconstructed, altered, or relocated in conformance with this Ordinance and all other applicable regulations.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate a sign permit.
- C. Authority.** The Commissioner of Permit and Inspection Services must review and take action on requests for a sign permit.
- D. Procedure**
  - 1.** A sign permit application must be filed, including payment of the applicable fee, with the Commissioner of Permit and Inspection Services in accordance with Section 11.2.1. Once it is determined that the application is complete, the application will be considered by the Commissioner of Permit and Inspection Services.
  - 2.** Within 30 days of the determination of completeness, the Commissioner of Permit and Inspection Services must review the sign permit application and approve, approve with modifications, or disapprove the application.
- E. Expiration.** If the work authorized under a sign permit is not completed within one year after the date of issuance, the sign permit expires.
- F. Revocation.** The Commissioner of Permit and Inspection Services may revoke any sign permit where there has been a violation of this Ordinance, misrepresentation of fact on the sign permit application, or threat to the public health, safety, and welfare.
- G. Appeals.** An aggrieved party may appeal the sign permit decision of the Commissioner of Permit and Inspection Services to the Zoning Board of Appeals in accordance with Section 11.3.12. Appeals must be filed within 60 days after the filing of a decision in the office of the City Clerk.

- H. Approval Standards.** The Commissioner of Permit and Inspection Services must determine whether the project complies with all applicable standards of this Ordinance and any other applicable law, regulation, or statute administered by the City.



**11.3.10 Temporary Use Permit**

- A. Description.** A temporary use permit allows for the short-term use and/or placement of structures on private property and/or the public right-of-way, in accordance with the standards of this Ordinance and any other applicable law, regulation, or statute.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate a temporary use permit.
- C. Authority.** The Commissioner of Permit and Inspection Services must review and take action on requests for a temporary use permit.
- D. Procedure**
  - 1.** A temporary use permit application must be filed, including payment of the applicable fee, with the Commissioner of Permit and Inspection Services in accordance with Section 11.2.1. Once it is determined that the application is complete, the application will be considered by the Commissioner of Permit and Inspection Services. In the case of an application that proposes a temporary use in a City park or City right-of-way, the application will not be considered complete until the Commissioner of Public Works, Parks, and Streets has authorized the temporary use in the City park or City right-of-way.
  - 2.** Within 30 days of the determination of completeness, the Commissioner of Permit and Inspection Services must review the temporary use permit and approve, approve with modifications, or disapprove the application.
- E. Expiration.** The temporary use permit is valid only for the time period granted as part of the approval.
- F. Appeals.** An aggrieved party may appeal the temporary use permit decision of the Commissioner of Permit and Inspection Services to the Zoning Board of Appeals in accordance with Section 11.3.12. Appeals must be filed within

60 days after the filing of a decision in the office of the City Clerk.

- G. Approval Standards.** The Commissioner of Permit and Inspection Services must make a determination based on the following criteria:
- 1.** The project complies with all applicable standards of this Ordinance and any other applicable law, regulation, or statute administered by the City.
  - 2.** The project will be established, maintained, and operated so as to not endanger the public health, safety, and welfare.

WRITTEN INTERPRETATION



11.3.11 Written Interpretation

- A. Description.** A written interpretation allows for a process to interpret the regulations of this Ordinance, which, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they are applied. The interpretation authority is not intended to add or change the essential content of this Ordinance, but only to allow authoritative application of that content to specific cases.
- B. Initiation.** Any review body, ordinance administrator, property owner, or person expressly authorized by the property owner in writing, may initiate a written interpretation. The interpretation must be for the purpose of furthering an actual development proposal.
- C. Submittals.** A request for a written interpretation of any provision of this Ordinance must set forth the specific provision or provisions to be interpreted and the facts of the specific situation concerning the request for an interpretation. The Zoning Administrator or Commissioner of Permit and Inspection Services may require further facts and information as are, in his/her judgment, necessary to provide a meaningful interpretation of the provision in question.
- D. Authority.** The Commissioner of Permit and Inspection Services, after receiving a recommendation from the Zoning Administrator, must take action on a request for a written interpretation.
- E. Procedure**
  - 1.** A written interpretation application must be filed with Commissioner of the Department of Permit and Inspection Services in accordance with Section 11.2.1. Once it is determined that the application is complete, the Commissioner of Permit and Inspection Services must forward the application to the Zoning Administrator.
  - 2.** Within 30 days of the determination of completeness, the Zoning Administrator must review the application and forward

a recommended interpretation to the Commissioner of Permit and Inspection Services. The Zoning Administrator must state any specific precedent(s), reasons, and analysis upon which the recommended interpretation is based.

- 3.** Within 45 days of the determination of completeness, the Commissioner of Permit and Inspection Services must issue the written interpretation. If the Commissioner of Permit and Inspection Services does not act within 45 days of the determination of completeness, the recommended interpretation from the Zoning Administrator will be deemed final.
  - 4.** Following the issuance of an interpretation, the written interpretation must be appended to the official copy of this Ordinance and distributed with any official copies of this Ordinance.
- F. Appeals.** An aggrieved party may appeal the written interpretation decision of the Commissioner of Permit and Inspection Services to the Zoning Board of Appeals in accordance with Section 11.3.12. Appeals must be filed within 60 days after the filing of a decision in the office of the City Clerk.

ADMINISTRATIVE APPEAL



11.3.12 Administrative Appeal

- A. Description.** An administrative appeal allows for a redress of a decision made by the Zoning Administrator or Commissioner of Permit and Inspection Services where an alleged error or misinterpretation has been made in the enforcement or application of the zoning provisions of this Ordinance.
- B. Initiation.** Any party aggrieved, or officer, department, board, or bureau of the City affected, by an order, requirement, decision, interpretation, or determination of the Zoning Administrator or Commissioner of Permit and Inspection Services may initiate an administrative appeal.
- C. Authority.** The Zoning Board of Appeals must hear and take action on an administrative appeal.
- D. Procedure**
  - 1.** An application for an administrative appeal must be filed, including payment of the applicable fee, with the Zoning Administrator in accordance with the requirements of Section 11.2.1 within 60 days of filing the requirement, decision, interpretation, or determination being appealed. Once it is determined that the application is complete, the Zoning Administrator must forward the application to the Zoning Board of Appeals. All papers, correspondence, and records requested by the Zoning Board of Appeals must be forwarded to the Board.
  - 2.** Within 62 days of the determination of completeness, the Zoning Board of Appeals must hold a public hearing on the administrative appeal. Notice of the public hearing is required in accordance with Section 11.2.2.
  - 3.** Within 62 days of the closing of the public hearing, the Zoning Board of Appeals must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the Zoning Board of Appeals.

- E. Stay of Proceedings.** An administrative appeal stays all administrative proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Zoning Board of Appeals, after the appeal is filed, by reason of facts stated, that a stay would cause imminent peril to life or property, in which case proceedings may only be stayed by the issuance of a restraining order, which may be granted by the Zoning Board of Appeals or by the court of record on the application.
- F. Rehearing.** An aggrieved party may petition for a rehearing of a matter on which the Zoning Board of Appeals has already once made a decision. A motion for the Zoning Board of Appeals to hold a rehearing to review such an order, decision, or determination, not previously reheard, may be made by any member of the Zoning Board of Appeals. Rehearings may only take place as follows:
- 1.** A unanimous vote of all members of the Zoning Board of Appeals then present is required for such rehearing to occur.
  - 2.** A rehearing is subject to the same notice provisions as an original hearing.
  - 3.** Upon a rehearing, the Zoning Board of Appeals may reverse, modify, or annul its original order, decision, or determination only upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision, or determination will not be prejudiced thereby.

MINOR ENCROACHMENT PERMIT



MAJOR ENCROACHMENT PERMIT



11.4 RIGHT-OF-WAY APPROVALS

11.4.1 Encroachment Permit

- A. Description.** An encroachment permit allows for a privately-owned structure to be erected upon, over, or under the public right-of-way.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate an encroachment permit.
- C. Applicability.** An encroachment permit is required for any application in which a proposed structure will encroach upon, over, or under a public right-of-way.
- D. Permit Classification**
  - 1. Minor Encroachment.** The Commissioner of Public Works, Parks, and Streets will classify the application as a minor encroachment where the proposal involves any of the following.
    - a. Sidewalk cafes.
    - b. Awnings or canopies.
    - c. Bicycle parking fixtures.
    - d. Newspaper/periodical racks.
    - e. Street furniture, including benches and trash receptacles.
    - f. Landscaping, including planters less than 10,000 pounds, irrigation systems, and electrical outlets for tree lighting.
    - g. Signs, including historical markers.
    - h. Temporary uses of a public right-of-way lasting six months or less.
  - 2. Major Encroachment.** The Commissioner of Public Works, Parks, and Streets will classify the application as a major encroachment where the proposal involves any of the following:
    - a. The installation or construction of any

structure upon, over, or under a public right-of-way that cannot be classified as a minor encroachment.

- b.** The installation of any structure which would obstruct use of the pedestrian way, defined as providing for less than five feet of horizontal clearance and seven feet of vertical clearance within the throughway zone, or less than 18 inches of horizontal clearance from the curbline.
- c.** The installation of any structure upon, over, or under the vehicular way.
- d.** The installation of any monument, statue, or public art.
- e.** An easement to a private party that grants such party permanent access to the public right-of-way.

**E. Submittals.** An application for an encroachment permit must include any information or documentation as the Commissioner of Public Works, Parks, and Streets deems necessary and appropriate for proper consideration of the application.

**F. Authority.** The Commissioner of Public Works, Parks, and Streets must review and take action on requests for an encroachment permit for a minor encroachment. The Common Council, after receiving a recommendation from the Commissioner of Public Works, Parks, and Streets, must take action on requests for an encroachment permit for a major encroachment.

## **G. Procedure**

### **1. Minor Encroachment**

- a.** An encroachment permit application must be filed, including payment of the applicable fee, with the Commissioner of Public Works, Parks, and Streets in accordance with Section 11.2.1.
- b.** Within 30 days of the determination of completeness, the Commissioner of Public Works, Parks, and Streets must

approve, approve with modifications, or disapprove the application.

### **2. Major Encroachment**

- a.** An encroachment permit application must be filed, including payment of the applicable fee, with the Commissioner of Public Works, Parks, and Streets in accordance with Section 11.2.1.
- b.** Within 30 days of the determination of completeness, the Commissioner of Public Works, Parks, and Streets must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Common Council.
- c.** Within 62 days of the determination of completeness, the Common Council must approve, approve with modifications, or disapprove the application.

**H. Approval Standards.** The Commissioner of Public Works, Parks, and Streets must make written findings of fact on and, in the case of a major encroachment, the Common Council must take into consideration the following criteria:

- 1.** The encroachment will not result in adverse effects upon the public health, safety, and welfare.
- 2.** The encroachment will not unnecessarily interfere with the use and enjoyment of, or access to, the public right-of-way or adjacent property.
- 3.** The encroachment will not produce conditions that discourage pedestrian travel or street activity.
- 4.** The encroachment will not obstruct pedestrian, cyclist, and vehicular visibility so as to create an unsafe or hazardous condition.

5. The encroachment will comply with this Ordinance and all policies, specifications, and requirements on file with the Department of Public Works, Parks, and Streets.
  6. The encroachment will not place undue liability on the City.
- I. Conditions.** In granting an encroachment permit, reasonable conditions and restrictions upon the public right-of-way encroachment may be imposed, including manner of placement, construction, and maintenance; method of removal and/or replacement; and indemnification to the City of Buffalo. Failure to comply with any condition or restriction constitutes a violation of this Ordinance and, in addition to any other civil or criminal remedy or enforcement procedure, is grounds for modification, suspension, or revocation of the encroachment permit.
- J. Expiration.** If the work authorized under an encroachment permit is not completed one year after the date of issuance, the encroachment permit expires.
- K. Removal.** The Commissioner of Public Works, Parks, and Streets has the authority, except as may be limited by easement, to remove any encroachment, including for the following reasons:
1. To undertake street, sidewalk, or curb replacement, or any other necessary repair, for so long as this removal is necessary.
  2. To ensure the public health, safety, and welfare.
  3. To remove an encroachment that is no longer needed or being used by the property owner.
- L. Revocation.** The Commissioner of Public Works, Parks, and Streets may revoke any encroachment permit where there has been a violation of this Ordinance or departmental policies, specifications, or requirements; misrepresentation of fact on the encroachment permit application; or threat to the public health, safety, or welfare.

**CURB CUT PERMIT**



**11.4.2 Curb Cut Permit**

- A. Description.** A curb cut permit allows for review of proposed cuts to curbing or pavement within a public right-of-way to provide access to a property.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate a curb cut permit.
- C. Applicability.** A curb cut permit is required for any cutting of the curbing or pavement of a public right-of-way to provide access to a property.
- D. Submittals.** An application for a curb cut permit must include any information or documentation as the Commissioner of Public Works, Parks, and Streets may deem necessary or appropriate for proper consideration of the application.
- E. Authority.** The Commissioner of Public Works, Parks, and Streets must take action on a curb cut permit.
- F. Procedure**
  - 1.** A curb cut application must be filed, including payment of the applicable fee, with the Commissioner of Public Works, Parks, and Streets in accordance with Section 11.2.1. Once it is determined that the application is complete, the application will be considered by the Commissioner of Public Works, Parks, and Streets.
  - 2.** Within 30 days of the determination of completeness, the Commissioner of Public Works, Parks, and Streets must approve, approve with modifications, or disapprove the application.
- G. Approval Standards.** The Commissioner of Public Works, Parks, and Streets must determine whether the curb cut complies with all applicable standards of this Ordinance and any other applicable law, regulation, or statute administered by the City.
- H. Conditions.** The Commissioner of Public Works, Parks, and Streets may, in approving the curb cut

permit, include such terms and conditions as are necessary to protect the public health, safety, and welfare.

**I. Expiration**

1. If the work authorized under a curb cut permit is not completed one year after the date of issuance and no request for a time extension is sought within the original period of validity, the curb cut permit expires.
2. The Commissioner of Public Works, Parks, and Streets may extend the time for expiration of an approved curb cut permit for one additional year upon a showing of good cause by the applicant. A request for an extension must be made in writing to the Commissioner of Public Works, Parks, and Streets within the original period of validity.

**J. Revocation.** The Commissioner of Public Works, Parks, and Streets may immediately revoke or suspend any curb cut permit if any of the following has occurred:

1. The permit was procured by fraud or misrepresentation.
2. The work creates an unsafe condition or public nuisance.
3. The driveway, parking lot, loading area, or other facility used to access the property has been removed or is no longer in use.
4. The applicant has failed to comply with any standard of this Ordinance, the terms or conditions of the permit, or any other applicable law, statute, or regulation.

**K. Removal.** If a curb cut is revoked per Section 11.4.2.J, the property owner will be required to remove the curb cut and to make the necessary repairs to the satisfaction of the Commissioner of Public Works, Parks, and Streets. If the property owner fails to comply, the Commissioner of Public Works, Parks, and Streets may cause the necessary repairs to be made to the curbing at the property owner's expense.

RIGHT-OF-WAY WORK PERMIT



11.4.3 Right-of-Way Work Permit

- A. Description.** A right-of-way work permit allows for review of work or activity within an existing or proposed City right-of-way. A right-of-way work permit does not include work on street trees, which is addressed by the tree work permit in Section 11.4.4.
- B. Initiation.** Any person intending to undertake work within a City right-of-way must initiate a right-of-way work permit. No right-of-way work permit or fees are required when work is initiated by the Department of Public Works, Parks, and Streets, the Buffalo Water Board, or Buffalo Sewer Authority, or their authorized agents, so long as the Commissioner of Public Works, Parks, and Streets is notified in writing of the locations, dates, and descriptions of the right-of-way work to be undertaken on at least a quarterly basis.
- C. Applicability.** A right-of-way work permit is required for any construction or repair activity within, shoring or excavation within or adjacent to, pavement disturbance within, or installation of structures upon, over, or beneath a City right-of-way, including City water rights-of way, specifically, Cazenovia Creek, Scajaquada Creek, the City Ship Canal, the Buffalo Harbor, and the Buffalo River. This includes the temporary use of the right-of-way for material storage, scaffolding, crane placement, dumpster placement, traversing the right-of-way with oversize equipment and/or equipment that is not permitted to traverse the right-of-way, or any other activity that obstructs free and clear use of the right-of-way.
- D. Submittals.** An application for a right-of-way work permit must include any information or documentation as the Commissioner of Public Works, Parks, and Streets may deem necessary or appropriate for proper consideration of the application.
- E. Authority.** The Commissioner of Public Works, Parks, and Streets must take action on a right-of-way work permit.

**F. Procedure**

1. A right-of-way work permit application must be filed, including payment of the applicable fee, with the Commissioner of Public Works, Parks, and Streets in accordance with Section 11.2.1. Once it is determined that the application is complete, the application will be considered by the Commissioner of Public Works, Parks, and Streets.
2. Within 30 days of the determination of completeness, the Commissioner of Public Works, Parks, and Streets must approve, approve with modifications, or disapprove the application.

**G. Approval Standards.** The Commissioner of Public Works, Parks, and Streets must determine whether the right-of-way work complies with all applicable standards of this Ordinance and any other applicable law, regulation, or statute administered by the City.

**H. Conditions.** The Commissioner of Public Works, Parks, and Streets may, in approving the right-of-way permit, include such terms and conditions as are necessary to protect the public health, safety, and welfare.

**I. Expiration**

1. If the work authorized under a right-of-way work permit is not completed one year after the date of issuance and no request for a time extension is sought within the original period of validity, the right-of-way work permit expires.
2. The Commissioner of Public Works, Parks, and Streets may extend the time for expiration of an approved right-of-way work permit for one additional year upon a showing of good cause by the applicant. A request for an extension must be made in writing to the Commissioner of Public Works, Parks, and Streets within the original period of validity.

**J. Revocation.** The Commissioner of Public Works, Parks, and Streets may immediately revoke or

suspend any right-of-way work permit if any of the following has occurred:

1. The permit was procured by fraud or misrepresentation.
2. The work creates an unsafe condition or public nuisance.
3. The applicant has failed to comply with any standard of this Ordinance, the terms or conditions of the permit, or any other applicable law, statute, or regulation.

**K. Exemptions.** Emergency responses by franchise holders or utility companies to such events as water or sewer main breaks, gas leaks, downed power poles, or underground power interruptions may proceed prior to issuance of a right-of-way work permit, provided that the applicant notifies the Commissioner of Public Works, Parks, and Streets within 24 hours and applies for a permit within two business days from the start of work. The Commissioner of Public Works, Parks, and Streets retains the authority to order the cessation of such emergency work where it is determined that their construction or location constitutes an unsafe condition or public nuisance.

TREE WORK PERMIT



11.4.4 Tree Work Permit

- A. Description.** A tree work permit allows for review of proposed planting of, work on, or activity which may potentially affect, a City tree.
- B. Initiation.** Any person intending to plant or undertake work on a City tree, or undertake construction work that may impact a City tree, must initiate a tree work permit. No tree work permit is required when work is initiated by the Department of Public Works, Parks, and Streets or its authorized agents.
- C. Applicability.** A tree work permit is required for any planting, pruning, or removal of City trees in any City park, City right-of-way, or other public place owned by the City; construction, repairs, shoring, excavation, or other surface disturbance within the critical root zone of any City tree; or any other development, work, or activity which may affect the health and vitality of a City tree.
- D. Submittals.** An application for a tree work permit must include any information or documentation as the Commissioner of Public Works, Parks, and Streets may deem necessary or appropriate for proper consideration of the application.
- E. Authority.** The Commissioner of Public Works, Parks, and Streets must take action on tree work permits.
- F. Procedure**
  - 1.** A tree work permit application must be filed with the Commissioner of Public Works, Parks, and Streets in accordance with Section 11.2.1.
  - 2.** Within 30 days of the determination of completeness, the Commissioner of Public Works, Parks, and Streets must approve, approve with modifications, or disapprove the application.
- G. Approval Standards.** The Commissioner of Public Works, Parks, and Streets must determine whether the tree work complies with all applicable standards of this Ordinance and any other applicable law, regulation, or statute administered by the City.

- H. Conditions.** The Commissioner of Public Works, Parks, and Streets may, in approving the tree work permit, include such terms and conditions as are necessary to protect the public health, safety, and welfare.
- I. Expiration.** If the work authorized under a tree work permit is not completed one year after the date of issuance, the tree work permit expires.
- J. Revocation.** The Commissioner of Public Works, Parks, and Streets may immediately revoke or suspend any tree work permit if any of the following has occurred:

  - 1.** The permit was procured by fraud or misrepresentation.
  - 2.** The work creates an unsafe condition or public nuisance.
  - 3.** The applicant has failed to comply with any standard of this Ordinance, the terms or conditions of the permit, or any other applicable law, statute, or regulation.

### THOROUGHFARE PLAN



### 11.4.5 Thoroughfare Plan

- A. Description.** A thoroughfare plan allows for review of proposed new construction, reconstruction, and reconfiguration of a thoroughfare, alley, or passage.
- B. Initiation**
  - 1. The Commissioner of Public Works, Parks, and Streets may initiate a thoroughfare plan.
  - 2. The property owner, or person expressly authorized by the property owner in writing, may initiate a thoroughfare plan.
- C. Applicability.** A thoroughfare plan is required for any of the following:
  - 1. New construction and reconstruction of any thoroughfare, alley, or passage.
  - 2. Any reconfiguration (i.e., a change in number, in dimensions, or of placement) of vehicle lanes, bicycle lanes or tracks, parking lanes, or pedestrian facilities within an existing thoroughfare, alley, or passage.
- D. Submittals.** A thoroughfare plan must include the information below. The Commissioner of Public Works, Parks, and Streets may waive submittal requirements for thoroughfare plans where such information is not necessary to determine the nature of the right-of-way improvement or that the right-of-way improvement meets relevant review criteria.
  - 1. Name, address, telephone number, and email address of the applicant.
  - 2. Statement of intent that describes the right-of-way improvements to be made.
  - 3. Boundaries of the proposed right-of-way improvements.
  - 4. Existing zone and use of property that abuts the right-of-way to be improved.
  - 5. Dimensions of blocks, lots, and property lines that abut, and rights-of-way that intersect, the right-of-way to be improved.

- 6. Existing and proposed parameters of the right-of-way to be improved, including the total right-of-way, curb radii, travel lanes, medians, bicycle facilities, parking lanes, sidewalks, and planting strips, and the number and species of street tree, type and spacing of street lighting, and type of stormwater management facilities, as applicable.
- 7. Existing and proposed transit, bicycle, and pedestrian amenities, including, but not limited to, transit stops and shelters, curb extensions, bicycle lanes and cycle tracks, shared lane markings, intersection treatments, and signals and signs, as applicable.
- 8. Such other information or documentation as the Commissioner of Public Works, Parks, and Streets may deem necessary or appropriate for proper consideration of the application.

**E. Authority.** The Commissioner of Public Works, Parks, and Streets, after receiving a recommendation from the City Planning Board, must take action on thoroughfare plans.

**F. Procedure**

- 1. A thoroughfare plan must be filed with the Commissioner of Public Works, Parks, and Streets in accordance with Section 11.2.1. Once it is determined that the application is complete, the Commissioner of Public Works, Parks, and Streets must forward the application to the City Planning Board.
- 2. Within 30 days of the determination of completeness, the City Planning Board must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Commissioner of Public Works, Parks, and Streets. Notice for the public meeting is required in accordance with Section 11.2.2.

- 3. The recommendations of the City Planning Board are advisory. The Commissioner of Public Works, Parks, and Streets retains sole authority to approve, approve with modifications, or disapprove the application.
- 4. Within 30 days of receipt of the City Planning Board recommendation, the Commissioner of Public Works, Parks, and Streets must review the thoroughfare plan and approve, approve with modifications, or disapprove the application.

**G. Approval Standards.** The City Planning Board must make written findings of fact on, and the Commissioner of Public Works, Parks, and Streets must take into consideration, the following criteria:

- 1. The project complies with all applicable standards of this Ordinance.
- 2. The project is consistent with the spirit and intent of the Comprehensive Plan, the City's complete streets policy, and adjacent zoning.
- 3. The project promotes the public health, safety, and welfare.
- 4. The project is in conformance with applicable standards and specifications as set forth by the Buffalo Sewer Authority, Buffalo Water Board, Commissioner of Public Works, Parks, and Streets, and Fire Department.

**H. Exemptions.** The Commissioner of Public Works, Parks, and Streets may waive the thoroughfare plan requirement for any right-of-way work for which immediate action is necessary to protect the public health, safety, and welfare.

## 11.5 SUBDIVISION APPROVALS

### 11.5.1 Description

Subdivision allows for the orderly division or consolidation of lots, the alteration of lot boundaries, and the dedication of land for public rights-of-way, parks, and other public purposes.

### 11.5.2 Initiation

The property owner, or person expressly authorized by the property owner in writing, may initiate an exempt alteration of lots, a minor subdivision, or a major subdivision.

### 11.5.3 Authority

The Commissioner of Permit and Inspection Services must take action on an exempt alteration of lots. The City Planning Board must take action on requests for approval of a minor subdivision or major subdivision.

### 11.5.4 Classification

**A. Exempt Alteration of Lots.** The Commissioner of Permit and Inspection Services will classify any division, consolidation, or other alteration of lot boundaries as exempt from City Planning Board review and a public hearing where each of the following criteria is met:

1. The proposed division, consolidation, or alteration of lot boundaries complies with the lot dimension standards of this Ordinance and will not result in split zoning classifications.
2. The proposed division, consolidation, or alteration of lot boundaries involves less than one-half acre of land in Neighborhood zones and less than two acres in total.
3. The proposed division, consolidation, or alteration of lot boundaries will not result in any through lots within an N-2R, N-3R, N-4-30, or N-4-50 zone.
4. All lots within the proposed division, consolidation, or other alteration of lot boundaries front on an existing public or private right-of-way, are served by existing

municipal facilities, and do not involve the dedication of land for public rights-of-way, parks, or other public purposes.

**B. Minor Subdivision.** The Commissioner of Permit and Inspection Services will classify the application as a minor subdivision where each of the following criteria is met:

1. The proposed division, consolidation, or alteration of lot boundaries cannot be classified as exempt per 11.5.4.A.
2. The proposed division, consolidation, or alteration of lot boundaries involves less than two acres of land in Neighborhood zones and less than five acres in total.
3. All lots within the proposed division, consolidation, or alteration of lot boundaries front on an existing public or private right-of-way, are served by existing municipal facilities, and do not involve the dedication of land for public rights-of-way, parks, or other public purposes.

**C. Major Subdivision.** The Commissioner of Permit and Inspection Services will classify the application as a major subdivision where the proposal involves any of the following:

1. The proposed division, consolidation, or alteration of lot boundaries cannot be classified as exempt per 11.5.4.A or as a minor subdivision per 11.5.4.B.
2. The construction of new public or private rights-of-way, the extension of municipal facilities, or the dedication of land for public rights-of-way, parks, or other public purposes.

### 11.5.5 Pre-Application Conference

**A.** The purpose of the pre-application conference is to make advice and assistance available to the applicant before preparation of the preliminary plat. The Zoning Administrator may include other relevant City departments and interested agencies in the pre-application conference.

- B.** The pre-application conference does not require formal application or fee. Any opinions or advice provided are not binding with respect to any official action that may be taken on the subsequent preliminary plat.

**11.5.6 Procedure**

- A.** A pre-application conference with the Zoning Administrator is required prior to the filing of a preliminary plat in the case of a major subdivision, and is optional in the case of a minor subdivision.

**B. Minor Subdivision**

- 1.** Only a preliminary plat is required for a minor subdivision application. Once approved, the preliminary plat will be considered the final plat.
- 2.** A preliminary plat must be filed, including payment of the applicable fee, with the Zoning Administrator in accordance with Section 11.2.1. Once it is determined that the preliminary plat is complete, the Zoning Administrator must forward the application to the City Planning Board.
- 3.** Within 62 days of the determination of completeness, the City Planning Board must hold a public hearing on the proposed preliminary plat. Notice of the public hearing is required in accordance with Section 11.2.2.
- 4.** Within 62 days of the closing of the public hearing, the City Planning Board must approve, approve with modifications, or disapprove the application. The failure of the City Planning Board to act within 62 days of the closing of the public hearing will be deemed an approval of the application as submitted, except where this 62 day period is extended by mutual consent of the applicant and the City Planning Board.

**C. Major Subdivision**

- 1.** A preliminary plat must be filed, including payment of the applicable fee, with the Zoning Administrator in accordance with the requirements in Section 11.2.1. Once

it is determined that the preliminary plat is complete, the Zoning Administrator must forward the application to the City Planning Board.

- 2.** Within 62 days of the determination of completeness, the City Planning Board must hold a public hearing on the proposed preliminary plat. Notice of the public hearing is required in accordance with Section 11.2.2.
- 3.** Within 62 days of the closing of the public hearing, the City Planning Board must approve, approve with modifications, or disapprove the preliminary plat. The failure of the City Planning Board to act within 62 days of the closing of the public hearing will be deemed an approval of the application as submitted, except where this 62 day period is extended by mutual consent of the applicant and the City Planning Board. Approval of the preliminary plat does not constitute approval of the final plat.
- 4.** Within 180 days of approval by the City Planning Board of the preliminary plat, the applicant must submit a final plat to the Zoning Administrator in accordance with Section 11.2.1. Once it is determined that the final plat is complete, the Zoning Administrator must forward the application to the City Planning Board.
- 5.** Upon the determination of completeness for the final plat, the City Planning Board will make a determination of whether the final plat is in substantial agreement with the approved preliminary plat.
  - a.** If the City Planning Board determines that the final plat is in substantial agreement with the preliminary plat, no additional public hearing is required. Within 62 days of the determination of completeness, the City Planning Board must approve, approve with modifications, or disapprove the application. The failure of the City Planning Board to act within 62 days of the determination of completeness

MINOR SUBDIVISION



MAJOR SUBDIVISION



will be deemed an approval of the application as submitted, except where this 62 day period is extended by mutual consent of the applicant and the City Planning Board.

- b. If the City Planning Board determines that the final plat is not in substantial agreement with the preliminary plat, the City Planning Board must hold a public hearing on the proposed final plat within 62 days of the determination of completeness. Notice of the public hearing is required in accordance with Section 11.2.2. Within 62 days of the closing of the public hearing, the City Planning Board must approve, approve with modifications, or disapprove the application. The failure of the City Planning Board to act within 62 days of the closing of the public hearing will be deemed an approval of the application as submitted, except where this 62 day period is extended by mutual consent of the applicant and the City Planning Board.

### 11.5.7 Phasing

The City Planning Board may permit a minor or major subdivision to be completed in phases. The City Planning Board may include any requirements or conditions on such phasing plan it deems necessary to ensure orderly development.

### 11.5.8 Submittals

#### A. Pre-Application Conference Submittals

- 1. A sketch plan of the proposed subdivision indicating the general layout of proposed thoroughfares, lots, and other improvements.
- 2. A location map or sketch, approximately in the scale of one inch equals 400 feet, showing the general relationship of the proposed subdivision to its surrounding area, including the general location of major thoroughfares, schools, parks, and other relevant developments.

- 3. A depiction of land reserved for thoroughfares, stormwater management, sewers, water, fire protection, public buildings, utilities, and other facilities.

#### B. Preliminary Plat Submittals

- 1. An application form, available from the Commissioner of Permit and Inspection Services.
- 2. Three hardcopies and one electronic copy of the preliminary plat prepared by a professional engineer or land surveyor licensed by the State of New York.
- 3. Evidence of site control.
- 4. A site plan drawn to a scale of at least one inch equals 100 feet with the following information:
  - a. A north point indication, scale, date of preparation of the preliminary layout, and the signature of the licensed professional engineer or land surveyor preparing the same.
  - b. A legal description of the land proposed to be subdivided, by deed description, surveyed by a New York State licensed land surveyor. The locations and coordinates of all monuments must be referenced to the nearest approved control point as directed by the Commissioner of Public Works, Parks, and Streets, if such control points exist. In the absence of such control points, the surveyor must extend a control point satisfactory to the Commissioner.
  - c. Sufficient information to locate accurately the proposed subdivision in relation to its general vicinity, by means of reference to thoroughfares, railroad lines, recorded plats, etc.
  - d. The boundary lines of the proposed subdivision, drawn to scale, including angles and distances, and a statement of the total area encompassed by such boundary lines.

- e. The location, dimensions, and layout of rights-of-way, blocks, easements, improvements, and utilities within and contiguous to the proposed subdivision, as well as the location and dimensions of such major features as railroad lines, waterways, and exceptional topography.
  - f. The layout, number, dimensions, and area of each lot within the proposed subdivision.
  - g. The location, dimensions, description of use or function, and layout of all parcels of land intended to be dedicated for public use or reserved as common space for subdivision property owners, such as parks and other open spaces.
  - h. The location of all existing and proposed connections with existing and proposed water, sewer, and other utility lines, and an indication of provisions for and location of stormwater management facilities.
5. An outline and description of all public improvements, if required, together with such preliminary drawings and information as required by City departments and interested agencies.
6. When required by the Zoning Administrator:
- a. A topography map with contours at specified intervals.
  - b. The location, size, and approximate grades of proposed sewers.
  - c. Cross-sections of proposed rights-of-way, showing roadway widths and grades, bicycle and pedestrian facilities, green infrastructure, and street trees.
  - d. The proposed location of water, gas, electric, cable, data delivery, and telephone outlets or lines.
- C. Final Plat Submittals.** The final plat submittals must include one original hardcopy, two hardcopies, and one electronic copy of the final plat, bearing the seal and signature of a New York State licensed professional engineer or land surveyor who prepared it. The final plat must conform to the approved plans and specifications for required improvements and the preliminary plat, incorporating any conditions required by the City Planning Board, and including the following information, as applicable:
1. Formal offers of dedication, when not set forth on the final plat, of any public rights-of-way or parks. All such offers of dedication must be accompanied by the appropriate deeds bearing a certification of approval by the City Corporation Counsel.
  2. The plans and specifications for required improvements containing the certifications required by this section, together with any required bonds and waivers.
  3. The final plat must contain the following:
    - a. The date of preparation of the final plat and by whom it was prepared.
    - b. The boundary of the plat, based on accurate traverse, with angles and linear dimensions.
    - c. The exact location, width, and name of all rights-of-way within and adjoining the plat.
    - d. True angles and distances to the nearest established right-of-way line or official monuments (no less than three).
    - e. Municipal, township, county, and section lines accurately tied to the lines of the subdivision by distances and angles.
    - f. Radii, internal angles, points, curvatures, tangent bearings, and lengths of all arcs.
    - g. All easements established for public use and utilities.
    - h. All lot numbers and lot lines, with accurate dimensions given in hundredths of a foot.

- i. Accurate outlines of all areas dedicated or reserved for public use, with the proposed uses indicated, and all areas to be reserved for the common use of the property owners, with the proposed uses indicated.
  - j. Forms of dedication, approval, and certification as required by this Ordinance.
4. Prior to submitting the final plat, the following approvals and certifications must be secured and evidenced on the final plat or by written documents supplementing such final plat:
- a. An endorsement from abstract or title company certifying that there are no liens against the land to be subdivided arising from nonpayment of City taxes, water or sewer charges, or fines.
  - b. A certification by all who have an interest in the property to be subdivided, authorizing and acknowledging the preparation of the subdivision plat and the dedication of any thoroughfares and other public areas.
  - c. The approval of the Commissioner of Public Works, Parks, and Streets that the subdivision agrees with the City survey and is mathematically correct.
  - d. A certification from the Commissioner of Public Works, Parks, and Streets, the Buffalo Sewer Authority, the Buffalo Water Board, and other authorities where approval is required, of the plans and specifications for required public improvements, or waivers from the same.
  - e. A performance bond or other security sufficient to cover the full cost of required improvements, as estimated by the City Planning Board or a City department designated by the City Planning Board to make such estimate, where such departmental estimate is deemed acceptable by the City Planning Board.

Any security must be provided pursuant to a written security agreement with the City, approved by the Common Council and City Corporation Counsel as to form, sufficiency, and manner of execution, and must be in accordance with General City Law §33. Any performance bond or security agreement must run for a term to be fixed by the City Planning Board, but in no case for a longer term than three years, except where this three-year period is extended by mutual consent of the applicant and the City Planning Board.

### 11.5.9 Approval Standards

In approving, approving with modifications, or disapproving an application for a subdivision, the City Planning Board must make written findings of fact on the following criteria:

- A. The land shown on the plat will be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, drainage, or other menace to neighboring properties or the public health, safety, and welfare.
- B. The subdivision will ensure the accurate and easy description of land, orderly growth and development, efficient land use, and proper use of natural resources.
- C. The subdivision is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
- D. Lots shown on the plat will:
  - 1. Conform with the standards of this Ordinance.
  - 2. Not result in split zoning classifications.
  - 3. Provide adequate access to a public or private right-of-way, or have access to such right-of-way with a permanent access easement.
  - 4. Be assigned street address numbers per Chapter 109 of the City Code.

- E.** Suitable monuments will be placed at block corners and other necessary points as may be required by the City Planning Board, with locations shown on the plat.
- F.** Rights-of-way will be coordinated so as to compose a convenient and connected system conforming to this Ordinance and the Comprehensive Plan.
- G.** All rights-of-way and other public places shown on the plat will be installed in accordance with standards, specifications, and procedures acceptable to the Buffalo Sewer Authority, Buffalo Water Board, Department of Public Works, Parks, and Streets, and Fire Department.

#### 11.5.10 Waivers

Where the City Planning Board finds that extraordinary hardships may result from strict compliance with these standards, it may waive these standards provided that the adjustment is consistent with the intent and purpose of this Ordinance. In granting any adjustment, the City Planning Board may attach such conditions as are, in its judgment, necessary to secure substantially the objectives of the standards or requirements that are adjusted. This does not authorize the City Planning Board to waive any zoning standard for which a variance would be required.

#### 11.5.11 Modifications to Approved Plats

- A.** The moving of lot lines and rearrangement of easements are considered minor modifications and may be approved by the Zoning Administrator, provided that the lots meet the minimum requirements of this Ordinance and all other applicable regulations, and the number of lots remains the same. All other modifications are deemed major modifications and require resubmission of a preliminary plat.
- B.** No changes, erasures, modifications, or revisions may be made in any final plat after approval has been given by the City Planning Board and endorsed in writing on the plat, unless the Zoning Administrator deems the changes a minor modification.
- C.** In the event that any such plat is recorded without

complying with this requirement, the plat will be considered null and void, and the Zoning Administrator must institute proceedings to have the plat stricken from the records of the County Clerk.

#### 11.5.12 Filing

The issuance of either one of the following constitutes final approval of a plat, and will authorize the filing of the plat with the County Clerk:

- A.** The signature of the Chairman of the City Planning Board on the plat.
- B.** The certificate of the City Clerk as to the date of the submission of the plat and the failure of the City Planning Board to take action within the prescribed time.

#### 11.5.13 Expiration

An approved subdivision expires 62 days from the date of the Chair's signature constituting the approval of the plat, or from the date the certificate is issued, unless within the 62 day period the plat is filed or recorded by the subdivider in the office of the County Clerk.

#### 11.5.14 Survey Monuments

Following final plat approval, survey monuments and markers must be laid out as indicated in the preliminary and final plats as follows:

- A.** The permanent survey monuments must be installed within 30 days of notice from the Commissioner of Public Works, Parks, and Streets and at the expense of the applicant.
- B.** Survey monuments must meet the following standards:
  - 1.** Monuments must be made of concrete cylinders covered with suitably marked bronze plates.
  - 2.** The tops of the monuments and their location and grade must be set as established by the Commissioner of Public Works, Parks, and Streets.
  - 3.** The cylinders must be of sufficient depth to

reach below the frost line.

- C. The Commissioner of Public Works, Parks, and Streets may modify or exempt this requirement based on the nature of the proposed subdivision.

#### 11.5.15 Reservation of Parkland

- A. Before the City Planning Board may approve a subdivision plat containing residential units, the subdivision plat must also show, when required by the City Planning Board, a park or parks suitably located for playground or other recreational purposes.
- B. Land for park, playground, or other recreational purposes may not be required until the City Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the City. These findings must include an evaluation of the present and anticipated future needs for park and recreational facilities in the City based on projected population growth to which the particular subdivision plat will contribute.
- C. If the City Planning Board makes a finding that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on the subdivision plat, the City Planning Board may require a sum of money in lieu thereof, in an amount to be established by the Common Council. In making the determination of suitability, the City Planning Board must assess the size and suitability of land shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any money required by the City Planning Board in lieu of land for park, playground, or other recreational purposes must be deposited into a trust fund to be used by the City exclusively for park, playground, or other recreational purposes, including the acquisition of property.

#### 11.5.16 Required Improvements

- A. **Installation of Improvements.** Within three years from the date of approval of the final plat, all improvements required by the Commissioner of Public Works, Parks, and Streets, Buffalo Water Board, and Buffalo Sewer Authority must be made (designed, constructed, installed) by the subdivider at his/her expense. These improvements include, but are not limited to, roadway grading and pavement, sidewalks, curbs or gutters, sanitary sewers, water mains and services, stormwater management facilities, fire services, street lighting infrastructure, street name signs, and street trees.
- B. **Notification.** Prior to the start of construction of any required improvements, the applicant must furnish to the Commissioner of Public Works, Parks, and Streets a copy of the specifications included in any contract entered into by the applicant for construction. The applicant must notify the City at least five days prior to the start of construction or installation of any improvement and at least 24 hours prior to the completion of these improvements.
- C. **Modification of Design of Improvements.** If at any time before or during construction of the required public improvements it is demonstrated to the satisfaction of the Commissioner of Public Works, Parks, and Streets that unforeseen conditions make it necessary or preferable to modify the location or design of the required improvements, the Commissioner of Public Works, Parks, and Streets may authorize modifications upon written request of the applicant, provided that the modifications are within the spirit and intent of the approved final plat and do not amount to the waiver or substantial alteration of the function of any required improvement. The Commissioner of Public Works, Parks, and Streets must issue any waiver in writing and transmit a copy of the waiver to the City Planning Board.
- D. **Inspection of Improvements**
  - 1. The construction of all required improvements must be supervised by a New York State-licensed engineer employed by the City

at the expense of the applicant. After completion of construction, the supervising engineer must certify to the Commissioner of Public Works, Parks, and Streets that all required improvements have been constructed as required.

2. The Commissioner of Public Works, Parks, and Streets must inspect required improvements during and at the completion of construction to ensure their satisfactory completion.
  3. If the Commissioner of Public Works, Parks, and Street finds, upon inspection, that any of the required improvements have not been constructed per the approved plans and specifications, he/she must instruct the applicant to correct any discrepancies.
- E. Default of Security Agreement.** If any required improvements have not been installed as provided in this section within the term of a security agreement, the Common Council may declare the performance bond or security agreement to be in default and collect the sum remaining payable thereunder; and upon the receipt of the proceeds, the City must install the improvements as are covered by the security and as commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.
- F. Acceptance of Improvements**
1. If any plat contains public rights-of-way, parks, or easements which are to be dedicated as such, the approval of the plat does not constitute an acceptance by the City of the improvements constructed or installed in the subdivision, irrespective of any acts by an officer, agent, or employee of the City with respect to these improvements.
  2. Every right-of-way, park, or easement shown on a plat filed or recorded in the office of the County Clerk will be deemed to be a private improvement until it has been formally dedicated and accepted by the City. Until such dedication and acceptance, the City is

not responsible for maintenance.

3. The acceptance of improvements may be made only by the adoption of a Common Council resolution after the Commissioner of Public Works, Parks, and Streets files a certificate with the City Clerk certifying that all improvements have been constructed or installed as required. All accepted easements must be filed with the plat and copies forwarded to the Commissioner of Public Works, Parks, and Streets.
  4. No reimbursement will be made by the City or any department or authority for the required improvements.
- G. Modification of Security.** If the City Planning Board decides at any time during the term of the performance bond or security agreement that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by the security, or that the required improvements have been installed in accordance with this Ordinance in sufficient amount to warrant reduction in the amount of the security, and upon approval by the Common Council, the City Planning Board may modify its requirements for any or all such improvements, and the amount of such security must be reduced by an appropriate amount so that the new amount will cover the cost in full of the amended list of required improvements.

### 11.5.17 Building Permits

No building permit will be issued prior to the filing of the final plat with the County Clerk.

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# Article 12. Nonconformities & Enforcement

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## 12.1 NONCONFORMITIES

### 12.1.1 General

- A. Authority to Continue.** Any use, structure, lot, or sign that was lawfully established prior to, and has been made nonconforming as of, the effective date or subsequent amendment of this Ordinance, may continue so long as the nonconformity remains otherwise lawful and complies with this section. Any rights conferred upon a nonconformity run with the property and are not affected by changes in tenancy or ownership.
- B. Proof of Nonconformity.** The burden of establishing the prior existence of a nonconformity is on the applicant. When applying for any permit or approval related to a nonconformity, the applicant may be required to submit evidence of a prior permit or other documentation showing that the nonconformity existed prior to the date on which it became nonconforming.
- C. Determinations of Nonconformity.** If there is a question as to whether a nonconformity exists, the matter will be decided by the Zoning Administrator with a written interpretation in accordance with Section 11.3.11.
- D. Relationship to Other Regulations.** All nonconforming uses, structures, lots, and signs must meet any applicable federal, state, and local requirements, including, but not limited to, licensing, health, safety, and building and fire code requirements.
- E. Illegality.** Any use, structure, lot, or sign that was illegal prior to the effective date of this Ordinance remains illegal if it does not conform to the provisions of this Ordinance.

### 12.1.2 Nonconforming Uses

- A. Description.** A nonconforming use is the use of a structure or land that was lawfully established prior to the effective date or subsequent amendment of this Ordinance, but which has been made nonconforming.

- B. Expansion.** A nonconforming use may not be expanded in area or increased in intensity.
- C. Alteration.** The structure containing the nonconforming use may be altered only if the alterations constitute ordinary repairs or maintenance or are designed to eliminate a nonconformity, provided it will not create any new nonconformity or increase the area or intensity of a nonconforming use.
- D. Change of Use**
  - 1.** A nonconforming use may not be changed to another nonconforming use. When a nonconforming use has been changed, in whole or part, to a conforming use, the part that has come into conformance may not be changed back to a nonconforming use.
  - 2.** A change of use is deemed to occur when an existing nonconforming use has been terminated and another use has commenced. Any change of use in violation of this Ordinance is deemed an abandonment of the nonconforming use.
- E. Discontinuance.** Whenever the active and continuous operation of any nonconforming use, in whole or part, has been discontinued for one year, it constitutes an abandonment of the nonconforming use or part of that use, regardless of any intent to resume operation. The discontinued nonconforming use may not be re-established.
- F. Restoration of Damaged Structures and Uses**
  - 1.** When a structure containing a nonconforming use is damaged or destroyed, and the cause of damage was not by any means within the control of the owner, the nonconforming use may be reestablished provided that no new nonconformities are created and the degree of the previous nonconformity is not increased. If the structure containing the nonconforming use is a nonconforming structure, such structure must be rebuilt, restored, repaired, or reconstructed in accordance with Section 12.1.3.

2. A building permit must be obtained for such rebuilding, restoration, repair, or reconstruction within one year of the date of damage or destruction. The Zoning Board of Appeals may grant a one-year extension of this period.
3. In the event that a building permit is not obtained within one year of the date of damage or destruction, and no extension is requested, then the nonconforming use may not be reestablished unless it conforms to all regulations of the zone.

### 12.1.3 Nonconforming Structures

- A. Description.** A nonconforming structure is a structure that was lawfully erected prior to the effective date or subsequent amendment of this Ordinance, but which has been made nonconforming.
- B. Alteration.** A nonconforming structure may be altered in the following circumstances:
1. The alteration or replacement is required by law or is necessary to restore the structure to a safe condition upon the order of any official charged with protecting public safety.
  2. The alteration constitutes routine repair or maintenance, or is designed to eliminate a nonconformity.
  3. The alteration conforms to the provisions of this Ordinance, and does not expand the existing or create a new nonconformity.
    - a. In the case of a structure that is nonconforming due to the width of one or more storefronts, such structure is not required to conform to the required maximum storefront width, so long as such nonconforming storefront width is not expanded.
- C. Relocation.** A nonconforming structure may not be moved in whole or part to another location unless the structure conforms to the standards of the zone to which the structure is moved.

### D. Restoration of Damaged Structures

1. When a nonconforming structure is damaged or destroyed to the extent of 50% or more of its replacement value, the structure may be repaired or rebuilt only if it conforms to the provisions of this Ordinance.
2. When a nonconforming structure is damaged or destroyed to the extent of less than 50% of its replacement value, it may be repaired and rebuilt to its previous condition, so long as the cause of damage was not by any means within the control of the owner, the nonconformity is not expanded, and no new nonconformity is created.
3. A building permit for repairs or reconstruction must be granted within one year of the date of damage or destruction, unless an additional one year extension is granted by the Zoning Board of Appeals.
4. The replacement value of the structure is based on: a) the sale of that structure within the previous year or, if that is not available; b) an appraisal within the last two years or, if that is not available; c) the amount for which the structure was insured prior to the date of the damage or destruction or, if that is not available; d) an alternative method determined acceptable by the Zoning Administrator.
5. In the event that a building permit is not obtained within one year of the date of damage or destruction, and no extension has been applied for, the structure may be repaired or rebuilt only if it conforms to the provisions of this Ordinance.

### 12.1.4 Nonconforming Lots

- A. Description.** A nonconforming lot is an existing lot of record that does not comply with the lot dimension standards of this Ordinance, created either prior to the effective date of this Ordinance or, as of the effective date of this Ordinance and any subsequent amendment, is made nonconforming.

- B. Alteration.** No nonconforming lot may be subdivided to increase the nonconformity.
- C. Permitted Development.** A lot that is nonconforming due to insufficient lot width or insufficient lot area may be developed, so long as any applicable setback standards are met. Where any setback standard is based on a percentage of the lot dimensions, the setback standard will be based on the minimum required dimension, rather than the actual dimension, of the lot.
- E. Removal of Abandoned Signs.** Any nonconforming sign that is located on a property that becomes vacant and unoccupied for a period of one year or more is deemed abandoned. Abandoned nonconforming signs must be removed by the owner of the sign or the property owner of the premises. No permits or approvals may be issued for properties with nonconforming abandoned signs until such signs are removed.

### 12.1.5 Nonconforming Signs

- A. Description.** A nonconforming sign is a sign that was lawfully erected prior to the effective date or subsequent amendment of this Ordinance, but which has been made nonconforming. Heritage signs, designated according to the provisions in Section 9.1.7, are not considered nonconforming signs.
- B. Alteration.** A nonconforming sign may remain in use, so long as the sign is not altered to expand or create a new nonconformity. A nonconforming sign may be otherwise be maintained and repaired, and the sign face and sign message may be changed, so long as these alterations do not increase the size, height, or degree of illumination of the sign.
- C. Relocation.** No nonconforming sign may be relocated in whole or part to any other location on the same or any other lot, unless the sign conforms to the standards of this Ordinance.
- D. Restoration of Damaged Signs**
  - 1.** When a nonconforming sign is damaged or destroyed to the extent of 50% or more of its replacement value, the sign may be repaired or rebuilt only if it conforms to the provisions of this Ordinance.
  - 2.** When a nonconforming sign is damaged or destroyed to the extent of less than 50% of its replacement value, it may be repaired and rebuilt to its previous condition, so long as the nonconformity is not expanded and no new nonconformity is created.

## 12.2 ENFORCEMENT

### 12.2.1 Enforcement

**A. Authority.** The Commissioner of Permit and Inspection Services has the authority to enforce the Unified Development Ordinance with respect to property outside of public rights-of-way and parks. The Commissioner of Public Works, Streets, and Parks has the authority to enforce the Unified Development Ordinance with respect to public rights-of-way and parks. The Commissioner of Permit and Inspection Services and the Commissioner of Public Works, Streets, and Parks may institute any appropriate inspection, action, or proceeding to:

1. Prevent the unlawful erection, relocation, extension, enlargement, or alteration of any structure or sign.
2. Prevent the unlawful use or occupancy of structures or land.
3. Prevent any illegal act, business, or use in or about the premises.
4. Restrain, correct, or abate violations of this Ordinance.

**B. Permits.** The Commissioner of Permit and Inspection Services may issue no permit for the construction or alteration of any structure or the use or occupancy of any premises unless the plans, specifications, and proposed use of the structure or premises conform to the provisions of this Ordinance. Any permit issued for the construction or alteration of any structure or for the use or occupancy of any premises contrary to the provisions of this Ordinance will be void. Any material misstatement of fact by an applicant for a permit or any material misrepresentation in his or her plans or specifications will render void the permit.

**C. Certificates of Occupancy.** No structure may be used or changed in use, nor premises occupied or used, until a certificate of occupancy has been issued by the Commissioner of Permit and Inspection Services.

**D. Stop-Work Orders.** Whenever the Commissioner of Permit and Inspection Services has reasonable grounds to believe that work on any structure or lot is being performed in violation of the provisions of the applicable building laws, ordinances, and regulations; is not in conformity with the provisions of the approved permit application, plans, specifications, and revisions; is in an unsafe and dangerous condition; or is without a required permit, the Commissioner will notify the owner of the property or the owner's agent to suspend all work, and any of these persons must stop work and suspend all building activities until the stop-work order has been rescinded. The order and notice must be in writing, must state the conditions under which the work may be resumed, and may be served either by delivering it personally or by posting it conspicuously where the work is being performed, and sending a copy of it by mail to the address set forth in the permit application.

### 12.2.2 Fines and Penalties

Any person, firm, or corporation who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any of the provisions of this Ordinance will be liable to pay a fine per City Code, Chapter 175, Fees, for each offense. Each day that a violation continues to exist constitutes a separate offense. The accumulation of penalties for violations, but not the obligation for payment for previous violations, ceases upon correction of the violation.

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# Article 13. Zoning Board of Appeals

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## 13.1 ZONING BOARD OF APPEALS

### 13.1.1 Creation and Composition

- A. Establishment.** The Zoning Board of Appeals heretofore established is continued, and its members will continue in office as heretofore appointed pursuant to former §511-121 of the City Code.
- B. Membership.** The Mayor will appoint a Zoning Board of Appeals, pursuant to the provisions of §§ 81 and 81-a of the General City Law, consisting of five members whose terms of office, commencing March 12, 1955, will be as follows: two members for terms of office of one year, two members for terms of office of two years and one member for a term of office of three years. The terms of office of the successors of such members will be three years. No member of the Common Council of the City may be deemed eligible to be appointed to the Zoning Board of Appeals.
- C. Alternate Members**
1. The Mayor will appoint two alternate members to the Zoning Board of Appeals for the purpose of substituting for a member in the event such member is unable to participate because of a conflict of interest. Such alternate members will serve terms of one year commencing upon the effective date of this ordinance.
  2. The Chair may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the Zoning Board of Appeals. When so designated, the alternate member will possess all the duties and responsibilities of such member of the Zoning Board of Appeals. Such designation must be entered in the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made.
- 3.** All provisions of this section relating to Zoning Board of Appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, compatibility of office and service on other boards, will also apply to alternate members.
- D. Vacancy in Office.** If a vacancy occurs except by expiration of term, the mayor will appoint the new member for the unexpired term. Where a vacancy occurs by expiration of a term of office, the incumbent member will hold over in office until a successor is appointed and qualified.
- E. Removal of members.** The Mayor will have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any member may be removed for non-compliance with any minimum requirements relating to meeting attendance and training as established by the legislative body by local law or ordinance.
- F. Officers.** One member of the Zoning Board of Appeals will be designated by the Mayor to act as Chair. At its first meeting held in the first month of January of each year, the Zoning Board of Appeals will elect one of its members to serve as Acting Chair.
- G. Compatibility of Offices.** Any City officials or employees on a Zoning Board of Appeals will not, by reason of membership thereon, forfeit their right to exercise the powers, perform the duties or receive the compensation of the City office or position held by them during such membership. No City officer or employee will be appointed to the Zoning Board of Appeals in the event such officer or employee cannot carry out the duties of office or employment position without a conflict in the performance of the duties of a member of the Zoning Board of Appeals.

### 13.1.2 Rules and Operations

- A. Rules.** The Zoning Board of Appeals will have the power to adopt, for its procedure and government, rules not inconsistent with law or ordinance.

**B. Meetings**

1. Meetings of the Zoning Board of Appeals will be held at least once each month, except in the month of August, at fixed dates established at the first meeting held in the first month of January each year. Additional meetings may be held at the call of the Chair and at such other times as the Zoning Board of Appeals may determine.
2. The Chair or, in the absence of the Chair, the Acting Chair, will administer oaths to all witnesses and, where necessary, compel the attendance of witnesses by subpoena.
3. Minutes of the Zoning Board of Appeals proceedings and documentation of findings for its decisions must be maintained in the office of the Zoning Administrator.
4. The presence of four members will constitute a quorum. The Zoning Board of Appeals must act by resolution. The concurring vote of four members of the Zoning Board of Appeals will be necessary to reverse any order, requirement, decision, or determination of the Commissioner of Permit and Inspection Services or Zoning Administrator, or to decide in favor of the applicant any matter upon which it is required to pass under this chapter, or to grant any variation from the requirements of this Ordinance.
5. The Corporation Counsel may assign an Assistant Corporation Counsel to advise and assist the Board at all meetings. The Board may call on other City departments for assistance in the performance of its duties, and it will be the duty of such other departments to render such assistance to the Board as may be reasonably required.

in any one year may be carried over by the member into succeeding years in order to meet the requirements of this subdivision. Such training must be approved by the Common Council and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.

- B. To be eligible for reappointment to the Zoning Board of Appeals, such member must complete the training promoted by the city pursuant to this section.
- C. The training required by this section may be waived or modified by resolution of the Common Council when, in its judgment, it is in the best interest of the city to do so.
- D. Each member must annually file evidence of completion of the training required by this section with the office of the Zoning Administrator.
- E. No decision of a Zoning Board of Appeals will be voided or declared invalid because of a failure to comply with this section.

**13.1.3 Training and Attendance Requirements**

- A. Each member of the Zoning Board of Appeals will complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours

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# Article 14. Planned Unit Developments

## 14.1 Planned Unit Development Number 1: Gates

### Circle Redevelopment.....14-2

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## 14.1 PLANNED UNIT DEVELOPMENT NUMBER 1: GATES CIRCLE REDEVELOPMENT

### 14.1.1 Purpose and Intent

The purpose of the Gates Circle Redevelopment Planned Unit Development (or “this PUD”) is to facilitate the mixed-use redevelopment of the former site of Millard Fillmore Gates Circle Hospital.

### 14.1.2 Applicability

- A.** This PUD applies to the following locations: 3 Gates Circle and 1277 Delaware Avenue, bounded by Lafayette Avenue to the north, Linwood Avenue to the east, Delaware Avenue to the west, and the southernmost lot lines of 1277 Delaware Avenue to the south. This PUD does not apply to 1 Gates Circle.
- B.** All applications for the use and development of the site will be subject the provisions of this PUD, as well as other applicable standards of this Ordinance.

### 14.1.3 Waivers and Modifications

All standards of this Ordinance apply to this PUD, with the exception of the following waivers, modifications, and/or supplements:

- A. Lot Dimensions.** Lot area must not be less than 5,000 square feet.
- B. Building Setbacks**
  - 1.** The front yard setback must be a minimum of 10 feet along Linwood Avenue.
  - 2.** The interior side and rear yard setbacks must be a minimum of three feet.
- C. Building Height**
  - 1.** No principal building may be less than two stories in height, nor greater than 10 stories and 124 feet in height.
  - 2.** No principal building may be greater than three stories or 40 feet in height long Linwood Avenue for the first 60 feet of depth from the

right-of-way line of Linwood Avenue.

### D. Principal Uses

- 1.** Any of the following principal uses may be established, separately or in combination with other principal uses permitted by right or by special use permit per Table 6A: Principal Uses, if in compliance with any applicable use standards, but are restricted in gross floor area as follows:
  - a.** Any individual retail or service establishment, excluding a grocery store and/or health or wellness center, must not exceed 14,000 square feet of gross floor area.
  - b.** A grocery store, defined for the purposes of this PUD as a retail establishment that primarily sells food and related items, must not exceed 25,000 square feet of gross floor area.
  - c.** A health and wellness center, defined for the purposes of this PUD as an establishment that offers health services for the body and mind, including, but not limited to, exercise and fitness, swimming, personal training, physical therapy, skin care services, nutrition counseling, chiropractic alternative medicine, acupuncture, or holistic medicine, must not exceed 50,000 square feet of gross floor area.
- 2.** The total gross floor area of all retail and service establishments must not exceed 136,000 square feet of gross floor area.
- 3.** A special use permit is required for any retail or service establishment which has frontage upon, and pedestrian access to, Linwood Avenue.

### E. Sign Standards

- 1.** Irrespective of Table 9A: Sign Illumination, an electronic message center (EMC) sign is prohibited.

2. Irrespective of Section 9.3, an off-premise sign is prohibited.

**F. Supplemental Standards**

1. No surface parking lot is permitted between building facades and the right-of-way lines of Lancaster Avenue, Delaware Avenue, and Linwood Avenue.
2. Any use, structure, lot, or sign approved prior to the adoption of this PUD will be considered conforming.

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