

Downtown Mixed Use-District

§103-17 DD, Downtown Mixed-Use District

A. INTRODUCTION

This Section provides regulatory standards governing land use and building form within the Downtown Mixed-Use District. The form-based code is a reflection of the community's vision for downtown North Tonawanda and implements the intent of the Comprehensive Plan, Local Waterfront Revitalization Plan, and NT Momentum Revitalization Strategy Master Plan. The form-based code is intended for adoption as part of the North Tonawanda Zoning Ordinance. Upon adoption, it will supersede and replace existing Zoning provisions regarding zoning districts, allowable land uses, permit requirements, and site development standards. The Downtown Mixed-Use District encompasses all of downtown North Tonawanda and includes the entirety of the downtown Historic Overlay District.

1. Purpose and Intent

The purpose of the Downtown Mixed-Use District is to create a vibrant downtown with a variety of building types that offer retail, service, employment, hospitality, entertainment, and civic functions, as well as a variety of housing choices. This district aims to reinforce the historic character and walkability of downtown.

2. Applicability

Compliance is intended to occur over time as redevelopment and new development occur. This Section recognizes lawful nonconforming status of uses and structures and normal maintenance if encouraged. This Section also recognizes that some sites may be difficult to develop in compliance with the provisions herein and provides for variance procedures within certain parameters.

The provisions in this Section shall apply to all development or redevelopment of property within the Downtown Mixed-Use District as outlined in the Applicability Matrix.

A. Exemptions Regular maintenance and repair of materials, parking resurfacing and similar maintenance is exempt from compliance with this Section.

A building expansion that is solely designed and constructed to provide accessibility for the disabled, provide for screened service areas or relocate or screen visible exterior mechanical equipment so long as such equipment is no longer visible, is also exempt from compliance with this section.

3. Conflicting Provisions

In the event that this Section conflicts with any other City Code provision (except for the Historic Overlay District), the provision of this Section shall supersede. In the event that any provision of this Section conflicts with the provisions of the Historic Overlay District, the Historic Overlay District shall supersede.

B. SUBAREAS ESTABLISHED

Downtown North Tonawanda is hereby divided into Subareas shown on the map entitled "Downtown Mixed-Use District Subareas Map" which is hereby made part of this ordinance.

C. USE REGULATIONS

With the exception of the prohibited uses listed in this Subsection, all uses listed as permitted uses within the City of North Tonawanda Code Chapter 103 are permitted within the Downtown Mixed-Use District, subject to the regulations of this Section.

The following uses are prohibited in the Downtown Mixed-Use District:

- Adult uses
- Automotive graveyard
- Campground
- Cemetery
- Contractor's yard
- Commercial surface parking lots as the primary use on any property (unless publicly owned)
- Drive-through establishments
- Dwelling, single-family
- Golf courses
- Industry, heavy
- Junkyard
- Motor vehicle sales, repair, or service station (allowed in OS and RR Subareas)
- Off-premise, free standing signs
- Scrap metal processing
- Self-storage

D. REGULATIONS APPLICABLE TO ALL

The following standards apply to all sites and buildings in all Subareas unless expressly stated otherwise.

E. DEFINITIONS Definitions, as they relate to the Downtown District will be included in this section.

ALLEY A narrow service street or passage less than twenty- two (22) feet between properties or buildings.

ALTERATION Any change, rearrangement or addition to or relocation of a building or structure; any modification in construction or equipment.

AWNING An ornamental roof-like protective cover over a door, entrance, window or sidewalk dining area that projects from the face of a structure and is constructed of durable materials, including but not limited to fabrics and/or plastics.

BALCONY An exterior platform that projects from or into the façade of a building and is surrounded by a railing, handrail, or parapet.

BILLBOARDS (SIGN ADVERTISING) A permanent sign or structure which directs attention to an idea, product, business activity, service, or entertainment which is primarily conducted, sold, or offered elsewhere than upon the premises on which such sign is located, or to which it is affixed.

BUILDING A combination of any materials, whether portable or fixed, having a roof, to form a structure affording shelter for persons, animals or property. The word "building" shall be construed, when used herein, as though followed by the words "or part or parts thereof," unless the context clearly requires a different meaning.

BUILDING FAÇADE, PRIMARY Any building frontage: (a) facing public streets and/ or any drive, parking lot, public or semi-public space, with or without a primary building entry; (b) greater than three feet from any adjacent structure in side yards; or (c) within fifty (50) feet of any rear property boundary.

BUILDING FAÇADE, SECONDARY All other building frontages not defined as a primary building facade.

BUILDING FRONTAGE That portion of the building perimeter facing a street or designated parking areas; in the case of two such perimeters, it may be either frontage at the option of the owner.

BUILDING HEIGHT The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard (a roof with a double pitch on all sides) roofs and to the mean height between eaves and ridge for babbled, hip and gambrel roofs.

BUILDING PERMIT That permit issued by the Building Inspector stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this chapter for the district in which it is located, and stating that all construction, relocation or extension of buildings are in compliance with the provisions of this Chapter, New York State Uniform Fire Prevention and Building Code, State Energy Conservation Construction Code and other applicable regulations.

COVERAGE The percentage of the lot covered by the aggregate area of all buildings or structures on the lot.

DECK An open-air structure providing outdoor living or circulation space. Decks may be at grade or above grade, freestanding, partially connected to an existing structure or constructed on top of an existing structure, pursuant to the New York State Building Code and the New York State Residential Code. Decks are considered a structure and shall conform to required lot setback and coverage requirements.

DENSITY The required land area for each dwelling unit within a given parcel of land, such as a minimum number of square feet of land area required for each dwelling unit.

DIRECTIONAL SIGN Refer to SIGN, DIRECTIONAL. **DRIVES AND CIRCULATION ROUTES** The following set of terms refer to vehicular circulation routes designed and/or constructed for the safe, convenient and efficient access within and/or between private development tracts and between said development tracts and two-lane or divided highways.

ACCESS DRIVE The primary route of internal circulation within a parking facility providing direct building, loading and drop-off access, emergency access, access to Drive Aisles and connectivity with adjacent Service Drives. Access Drives do not provide direct connections to divide or two (2) lane highways, are a component of internal site circulation owned and maintained by private interests and are not a public right-of-way.

ACCESS LANE A permanent and continuous access route between Access Drives on adjoining properties, either planned or constructed, to facilitate shared or common access to a Service Drive. Access lanes are a component of internal site circulation owned and maintained by private interests and are not a public right-of-way.

DRIVE AISLE The primary access route connecting Access Drives and individual parking spaces. Access lanes are a component of internal site circulation owned and maintained by private interests and are not a public right-of-way.

SERVICE DRIVE A primary form of ingress and/or egress to a two (2) lane or divided highway providing access to greater than three (3) non-residential lots in a coordinated, well-planned manner. Service Drives

are public or private roads that meet City of North Tonawanda's design and construction standards for roads within a defined right-of-way.

DRIVEWAY A private street, drive or roadway giving access from a public way, road or highway to abutting lots.

DRIVEWAY, SHARED An area or areas on one (1) or more properties providing access from a public or private street where the usage of said access route is provided to three (3) or fewer lots through an easement agreement. Shared or common driveway access for greater than three (3) residential lots is defined as a road.

EAVE The extension of the roof beyond the structural building wall.

FENCE A structure bounding an area of land designed to either limit access to the area or to screen such area from view, or both. The term "fence" shall include tennis court and swimming pool enclosures, backstops, and similar structures.

FRONTAGE That side of the lot abutting the street. A corner lot shall be considered to have two (2) such "frontages." A through lot has three (3) frontages.

GABLE A roof section with a single break at the center of the roof structure which creates a triangular portion of wall below the sloping roof.

GAMBREL ROOF A usually symmetrical two-sided roof with two slopes on either side, with the upper slope positioned at a shallow angle, and the lower slope having the steeper pitch.

GROSS FLOOR AREA (GFA) The gross size of the total floor area of the outside dimensions of a building. These dimensions shall include the length, width and number of stories of the facility.

HIP ROOF A roof where all sides slope downwards to the walls, usually with a fairly gentle slope.

LANDSCAPED AREA The area required or permitted to be devoted to landscaping and environmental improvement, which may include existing and new vegetation.

LIGHT POLLUTION Presence of excessive illumination in locations where it is not desired; excess or obtrusive light.

LOT DEPTH The mean horizontal distance between the front and rear lot lines.

LOT LINES The property lines bounding the lot.

LOT LINE, FRONT The property line separating a plot or parcel of property from a public street or highway. If a lot adjoins two or more streets or highways, it shall be deemed to have a front lot line respectively on each. On waterfront lots which border water on one or more lot lines, the lot line on the road front is considered the principal front lot line.

LOT LINE, REAR That lot line which is opposite and most distant from the front lot line.

LOT LINE, SIDE A lot line not a front lot line or a rear lot line.

MANSARD ROOF A roof with a double pitch on all four sides, the lower slope having the steeper pitch.

OPEN SPACE Any site with no structures located on it.

PARKING AREA or PARKING LOT Any place, lot, parcel or yard used in whole or in part for storing or parking four (4) or more motor vehicles under the provision of this ordinance.

PARKING SPACE An area intended for use as an accessory off-street parking facility not less than ten (10) feet in width or less than twenty (20) feet in length, having a clear height of not less than seven feet.

PARAPET The extension of a building facade above the line of the structural roof.

PEDESTRIAN CONNECTION or ACCOMMODATION An improved pathway at least five (5) feet in width devoid of obstructions or hazards and intended for use by pedestrians to commute between destinations, including but not limited to buildings, structures, parks and open spaces, parking areas, the sidewalk system or other walkways.

PROJECTION A vertical or horizontal break in a building façade which moves the wall surface outward.

PUBLIC REALM All areas legally open to public use, such as public streets, sidewalks, roadways, highways, parkways, alleys and parks, as well as the interior and areas surrounding public buildings.

PUBLIC RIGHT-OF-WAY The land opened, reserved, or dedicated for a street, sewer, water, walk, drainage course, or other public purposes.

SETBACK LINE The horizontal distance from any building or from a specified building to the nearest point in an indicated lot line or street line, measured at right angles to the street line, not including the following:

a) cornices or open entrance hoods anchored to the building without posts, which do not project more than three (3) feet from the building wall; b) retaining walls and fences; c) open entrance steps; d) open terraces not more than two (2) feet in height above the finished grade and which do not project more than six (6) feet from the building wall. Setback requirements, as listed in the Bulk and Use Tables, apply to the location of buildings, but not driveways, parking areas, or other landscaping treatments.

SETBACK, FRONT The least required horizontal distance between the front lot line, or in instances where sidewalks are present or required from the interior sidewalk edge, and the principal building measured at the shortest point. On waterfront lots which border water on one or more lot lines, the lot line on the road front is considered the principal front lot line.

SETBACK, REAR YARD The horizontal distance between the rear lot line and the principal building measured at the closest point.

SETBACK, SIDE YARD The horizontal distance between the side lot line and the principal building measured at the closest point.

SIDEWALK, DINING Any outdoor café, eating area or food service accessory to a restaurant.

SIGN Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any structure or surface, but not including signs placed or erected by the City of North Tonawanda, Niagara County, the State of New York or the United States of America for public purposes.

SIGN AREA or SIGN SURFACE AREA The entire area within a single continuous perimeter enclosing the extreme limits of lettering, representations, emblems or other figures, together with any material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, including structural members bearing no sign copy.

SIGN PERMIT A permit issued pursuant to Article 5 of this chapter.

SIGN, AWNING A sign on which graphics or symbols are painted, sewn, or otherwise attached to the awning material as an integrated part of the awning itself.

SIGN, DIRECTIONAL Any sign limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way," "entrance" and "exit."

SIGN, ELECTRONIC MESSAGE Any sign, or portion of a sign, that uses changing lights to form a sign message or messages where the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

SIGN, FREESTANDING A sign supported by one (1) or more upright poles, columns or braces placed in or on the ground and not attached to any building or structure.

SIGN, ILLUMINATED (DIRECTLY) A sign designed to give forth artificial light directly from a source of light within such a sign.

SIGN, ILLUMINATED (INDIRECTLY) A sign illuminated with a light so shielded that no direct rays therefrom are visible elsewhere on the lot where said illumination occurs.

STRUCTURE Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of vegetation, boundary walls, fences, mailboxes, lampposts, bird houses, or similar

construction. The term includes but is not limited to structures temporarily or permanently located, such as decks, patios, satellite dishes, communications systems, pools, ponds, etc.

TRANSPARENCY Transparency is the minimum percent of windows and doors that must cover a building façade. Opaque windows do not count as part of building transparency.

ZONING DISTRICT The classification of lands as established in this Chapter and by the Official Zoning Map incorporated by reference herein.

ZONING MAP The official map entitled "City of North Tonawanda Zoning District Map" established pursuant to §103-6 of this Chapter.

A. Lot Width

C. Outdoor Amenity Space Lot width is the distance between the two

Where required, as noted within each side lot lines measured at the primary street

Subarea, outdoor amenity space must be property line along a straight line (or along the provided on the site and must be available as chord of the property line on a curvilinear lot).
unenclosed, improved active or passive space

B. Lot Depth

for use by the occupants of the development. It may be provided in one contiguous open Lot Depth is the distance between the front
area or multiple areas on the site. and rear property lines measured along a line midway between the side property lines.

i. Size and Type

Each must be at least 100 square feet in size and may include:

- Playgrounds or athletic court
- Splash pad
- Trail, path (minimum 5 feet wide)
- Garden, sitting area
- Rooftop deck
- Pavilion, gazebo
- Outdoor dining

ii. Other Requirements

- Outdoor amenity space can include bike racks, kiosks, benches, sculptures, and fountains.
- Outdoor amenity space cannot be used for parking except for emergency access
- Amenity space must be designed to be permanent.

A. Building Setbacks

Building setbacks apply to all structures. There are four types of setbacks:

- Primary Street
- Side Street
- Side Interior
- Rear

i. Measurement of setbacks

Primary and side street setbacks are measured from the property line. Side, rear, and interior setbacks are measured from the property line (or edge of right-of-way where there is an alley).

ii. Primary and side street designation Where only one street abuts a lot, that street is considered the primary street. A lot with multiple frontages must have at least one primary street, as designated by the Building Inspector, based on the following criteria:

- The street(s) with the highest classification
- The established orientation of the block
- The street(s) abutting the longest face of the block
- The streets(s) parallel to an alley within a block
- The street that the lot takes its address from

B. Build-to Zone

One of the most important defining elements of the downtown public realm is the street wall. The street wall is made up of building facades that are placed within the build-to zone to create a continuous building fabric. The build-to-zone is the area between the minimum and maximum front setbacks. Portions of a building must be placed within this zone along a prescribed percentage of the lot width.

To determine compliance with the build-to zone requirements, the total width of the building portion located within the build-to zone is divided by the width of the lot.

Build-to zone standards are prescribed in sub- section *E Regulations Pertaining to Subareas*.

A. Measurement

Building height is regulated in feet and is measured from the average grade of the frontage facing a Primary Street to the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof or to the highest point of roof surface of a flat roof, not including allowed encroachments.

B. Height Encroachments

All buildings must be constructed within the maximum building height, with the exception of height encroachments allowed within each Subarea. Allowed encroachments are specified in sub-section *E Regulations Pertaining to Subareas*.

A. Transparency

Transparency is the minimum percent of street-facing facade that must be comprised of transparent windows. The ground story is measured between 2 and 12 feet above the sidewalk. This requirement applies to Primary and Side streets only. Opaque elements of a window (such as panes, frosted or tinted areas, and opaque portions of window signs) cannot be used to meet the transparency requirement.

B. Building Materials

Permitted building materials are prescribed within each Subarea, as specified in sub- section *E Regulations Pertaining to Subareas*.

C. Pedestrian Access

All buildings must provide a street-facing entrance operable to residents or customers at all times. There must be a connection between all main building entrances and the closest sidewalk (or street if there is no sidewalk).

All buildings and structures must be located behind the required setback except for the encroachments allowed below.

A. Awnings

An ornamental roof-like protective cover over a door, entrance, window or outdoor service area that projects from the face of a structure and is constructed of durable materials.

All applicants must provide an indemnity agreement, in a form acceptable to the City, holding harmless and indemnifying the City, its officers and employees, from and against any and all claims and liability resulting from encroachment into the public right of way. Applicants must also provide proof of insurance acceptable to the City and naming the City as an additional insured on a primary, non-contributory basis.

^ADepth (max) 5'
Clear height above ^B
sidewalk (min)
7'

Awnings shall be continuous above openings below. Breaks in awnings shall coincide with breaks in facade openings below.

Canvas and fabric awnings must be made of durable fabric and must be in a fixed position.

High-gloss or plasticized fabrics are prohibited.

Bright colors that are incompatible with building materials are prohibited. Internally illuminated or backlit awnings are prohibited.

Awnings must be self-supporting. No support poles may encroach onto the right-of-way.

B. Sidewalk Dining

Sidewalk dining is a designated area of a public sidewalk where patrons may sit at tables while consuming food and beverages purchased from the associated eating establishment.

The sidewalk dining area must be located adjacent to the property of a lawfully operating eating establishment and shall be under the control of the restaurant.

At least 5 feet of unobstructed corridor space must be maintained past the sidewalk dining area for sidewalk pedestrian traffic in order to ensure a clear pedestrian passageway along the sidewalk.

At least 44 inches of unobstructed space must be maintained between any restaurant doorway and the sidewalk.

Food preparation is not allowed in the sidewalk dining area.

Loudspeakers are prohibited in the outdoor dining area. Amplified sounds from inside the restaurant must not be audible in any dining area on the public right-of-way.

^A
Seats (max) 4 per 10 linear feet of restaurant frontage

Freestanding planters, fences, or railings may be installed for purposes of compliance with the NYS Liquor Authority and must be:

- Self-supporting
- No taller than 30 inches
- Easy to remove from the sidewalk

If the applicant holds a State Liquor Authority license to serve alcohol in the restaurant premises, the applicant must provide waiter service.

All applicants must provide an indemnity agreement, in a form acceptable to the City, holding harmless and indemnifying the City, its officers and employees from and against any and all claims and liability resulting from encroachment into the public right of way. Applicants must also provide proof of insurance acceptable to the City and naming the City as an additional insured on a primary, non-contributory basis.

C. Balconies

A balcony is an exterior platform that projects from or into the façade of a building and is surrounded by a railing, handrail, or parapet. Balconies must be self supported to the structure. No posts are allowed.

Balconies may not be fully enclosed.

Balconies must match the architectural design of the building, using similar details and materials.

Not appropriate (fully enclosed balcony)

Projecting depth (max)

All applicants must provide an indemnity agreement, in a form acceptable to the City, holding harmless and indemnifying the City, its officers and employees from and against any and all claims and liability resulting from encroachment into the public right of way. Applicants must also provide proof of insurance acceptable to the City and naming the City as an additional insured on a primary, non-contributory basis.

^{AG}

6'

Clear height above sidewalk (min)

9'

Appropriate Parking Location (rear) Not Appropriate Parking Location (front)

Rear-loaded parking

A. Minimum Spaces Required

of one space per 4 dwelling units; There is no minimum parking space requirement within the D-1 and D-2 Subareas.

- Up to an additional 5 percent for the provision of Outdoor Amenity Space Minimum spaces required within the OS and RR Subareas are prescribed per Article 103-47 exceeding the minimum requirements by at least 10 percent. (Off-Street Parking & Loading).

The maximum reduction allowed through B. Reduction of Minimum Spaces Required

Applicants may seek administrative approval from the Building Inspector for a reduction in the minimum number of parking spaces required within the OS and RR Subareas. Minimum parking requirements may be reduced by up to 30 percent, subject to the

any combination of criteria in this Subsection is 50% of the minimum parking requirements established in

Article 103-14. Any reduction beyond the maximum reduction authorized herein shall be considered an area variance and may only be granted by the Zoning Board of Appeals pursuant to Article 103-18. following criteria:

C. Location of Parking

- The parking needs of the use will be adequately provided through on-street parking or existing off-premise parking with available capacity; or

Except where noted in this Subsection, off-street vehicle parking is not permitted between a building facade and a Primary Street. Existing parking areas located between the building facade and a Primary Street may

- Parking needs will be accommodated

not be expanded. through shared parking. See requirements for Shared Parking in Subsection J, below.

D. Parking Lot Design

Applicants may seek administrative approval from the Building Inspector for a reduction greater than 30 percent of minimum parking requirements, subject to the following criteria:

The design of stall size and drive aisle dimensions shall be constructed according to the standards of Article 103-14 (Off-Street Parking & Loading).

- Up to an additional 10 percent reduction

E. Interior landscaping for the provision of cross-access (where

Parking lots must meet the requirements of such cross-access did not exist) that

Article 103-26 (Landscaping). is in conjunction with shared parking arrangement satisfying the requirements of

F. Perimeter Landscaping Subsection J, below;

All surface parking lots with frontage on a

- For residential uses, up to an additional 5 percent for the provision of secure, indoor long-term bicycle parking spaces at a ratio

Primary or Side Street must be screened according to the requirements set forth in sub- section E
Regulations Pertaining to Subareas.

G. Lighting

Pedestrian routes must provide pedestrian- scaled lighting.

H. Cross-Access and Connectivity

Cross-access is encouraged between abutting parking areas.

Property owners who establish cross-access must record an easement allowing cross- access to and from properties served by the access easement and record a joint maintenance agreement defining the maintenance responsibilities of each owner.

Cross-access may be used to justify a reduction in the required minimum parking when proposed as part of a Joint Parking Agreement, as provided in Subsection J, above.

I. Loading Areas

Loading areas must be located on the lot occupied by the use served and must be accessible from a public street or alley.

Loading areas may not be placed between

Appropriate Interior Landscaping Appropriate Pedestrian Route

Not appropriate

Not appropriate

the building and any Primary Street.

J. Shared Parking

Applicants are encouraged to investigate common or shared parking opportunities between adjacent uses and businesses.

Where shared parking is used to meet the requirements for a reduction in the total number of required parking spaces, the applicant must provide the City with a Joint Parking Agreement. Shared parking must be within 600 feet of the pedestrian entrances of all establishments involved in the Joint Parking Agreement.

K. Internal pedestrian routes

Internal pedestrian routes must be provided between different areas within the site, such as parking areas, bicycle parking, common outdoor areas, and any pedestrian routes.

Pedestrian routes must be hard surfaced at least 4 feet in width. Where the route crosses driveways, parking and loading areas, the route must be clearly identifiable through the use of elevation changes, paving materials or other methods.

Not Appropriate Bicycle Rack appropriate

A. Number of Spaces

The number of required short-term bicycle spaces is as follows:

- Multi-family dwellings and Apartments: 1 bicycle space for every 5 dwelling units.
- Public Parking Lots: 4 bicycle spaces per every 20 vehicle parking spaces.
- Office, Retail and Restaurant: 1 bicycle space for every 1,500 square feet of building gross floor area.
- Existing public bicycle racks within 50 feet of the main entrance of the subject building may be used to fulfill minimum requirements.

B. Location

- Bicycle parking must be located outside the building and at the same grade as the sidewalk.
- For buildings with one main entrance, bicycle parking must be located within 50 feet of the main entrance to the building, as measured along the most direct pedestrian access route.
 - For buildings with more than one main entrance, bicycle parking must be located along all facades with a main entrance and within 50 feet, as measured along the most direct pedestrian access route.

Bicycle Racks

Standards for short-term bicycle parking are as follows:

- The bicycle frame and one wheel can be locked to the rack with a U-shaped lock even if both wheels are on the bicycle.
- An area of 2 feet by 6 feet must be provided for each bicycle space. The bicycle should not be able to be pushed over or fall in a manner that will damage it.
- The rack must be in full view in a well-lit area and securely anchored.
- Bicycle racks may not obstruct pedestrian traffic.

Appropriate Bicycle Rack

Appropriate Screening

Not Appropriate

A. Screening

i. Service Areas

Trash collection, recycling, compaction, and other similar service areas must be located to the side or rear of buildings and must be screened from view from adjacent properties and from a public right-of-way (not including alleys).

Service areas that are not integrated into a building must be screened on at least three sides by a wall at least six feet high and on the 4th side by a solid gate at least six feet high.

ii. Roof Mounted Equipment

Roof mounted equipment must be screened from ground level view from adjacent property and adjacent public rights-of-way.

iii. Wall Mounted Equipment

Wall mounted equipment at grade level must be screened by landscaping or an opaque screen and is not allowed on any surface that directly faces a Primary or Side Street.

iv. Ground Mounted Equipment

Ground mounted equipment must be screened from view by landscaping or a fence or wall that is equal to or greater than the height of the equipment.

B. Fences and Walls

i. Height

Fences and walls required pursuant to this Subsection may be no higher than 8 feet.

ii. Materials

- Walls and fences must be constructed of high quality materials, such as decorative blocks, brick, stone, split-faced block, or other materials consistent with the associated building.
- Exposed standard concrete walls are prohibited.
- Barbed wire, concertina, and chain-link fences are prohibited.

Appropriate Landscaping

A. General Requirements

Applications required to meet the landscaping standards in this Section (see Applicability Matrix) must provide landscaping within portions of property that are not developed with structures, rights of way, or parking areas. (note: parking lot landscaping requirements are in Subsection D6.)

B. Planting and Maintenance Standards

The planting and maintenance of landscaping in the Downtown Mixed-use District must meet the requirements of Code Article 103-26 (Landscaping).

Appropriate Lighting

A. Lighting

i. Prohibited Sources/fixtures

- Cobra-head style fixtures having dished or drop lenses or refractors.
- Temporary search lights and other high intensity, narrow beam lights.
- Amber hue lighting, such as high pressure sodium fixtures and equivalent performance are not permitted.

ii. Building Lighting

- Building mounted lighting must be complementary to the architectural style of the building and surroundings.
- Building lighting may not be installed at a height exceeding 15 feet above grade.
- Building light fixtures must be fully shielded.

Not Appropriate Lighting

iii. Site Lighting

- Site lighting fixtures must be complementary to the architectural style of the building and surroundings.
- Site lighting fixtures must be fully shielded. Light trespass into adjacent non-commercial areas shall not exceed 0.1 foot candles in intensity.
- Fixtures within pedestrian areas, along sidewalks and walkways may be no higher than 8 feet.
- Fixtures within parking lots may be no higher than 20 feet.

A. Applicability

With the exception of temporary and incidental signs allowed in Chapter 77, signs not identified in this Subsection shall not be permitted in the Downtown Mixed-Use District.

B. Permit Required

All applicants proposing to install, reconstruct, or alter a sign within the Downtown Mixed-Use District must obtain a permit according to the procedures set forth in Chapter 77.

- Alteration means any change in the configuration, orientation, illumination, or purpose of the sign.
- Reconstruction means the removal and replacement of more than 51 percent of the existing surface area or structural elements of a sign.

C. Placement of Signs

All signs must be located on the same lot as the business to which it relates and be clearly incidental, customary, and commonly associated with the operation of the business. Signs may not be placed on accessory structures.

D. Sign Height

No portion of a sign may be located at height of more than 20 feet above grade.

E. Roof Encroachment

Signs may not project above the roof of any building and are in no case permitted as building height encroachments.

F. Signs on the Right-of-Way

Signs may not encroach onto any streets or alleys. Awning, Projecting, and Sidewalk signs may encroach over the public sidewalk and must be located at a minimum of 18 inches inside the curb line or edge of pavement, whichever is greater.

G. Maximum Sign Area per Building

Each establishment may be permitted a maximum square footage of sign area based on the Subarea in which it is located. The maximum sign area may be split between sign types as identified within the regulations pertaining to each Subarea.

H. Sign Illumination

Signs may be illuminated where allowed in sub-section *E Regulations Pertaining to Subareas*. The following requirements apply to all illuminated signs in the Downtown Mixed-Use District.

i. External illumination

External illumination of signs may not shine directly into the public right-of-way or adjacent properties. Fixtures must be shielded and directed to minimize light pollution.

A sign on which graphics or symbols are painted, sewn, or otherwise attached to the awning material as an integrated part of the awning itself.

^ASign Area (as % of total awning area)

^B

Letter height

Dimensional requirements prescribed within each

Subarea

Awning signs may not extend outside the awning.

For purposes of calculating the allowed sign area, the total square footage of the awning face

Signs are allowed on ground floor awnings only.

includes both the slope and the face of the awning.

Awning signs may be externally illuminated only.

B. Projecting Sign

A sign attached to the building facade at a 90 degree angle, extending more than 12 inches from the wall. It may hang from a bracket and it may be two or three-dimensional.

No portion of a projecting sign may be higher than the top of the building.

No portion of a projecting sign may be located higher than the second floor of the building.

Any part of a sign extending over pedestrian areas must have a minimum height clearance of 10 feet.

Projecting signs may be internally or externally illuminated.

^ASign Area

^B

Projection from building

^CDepth

^DHeight

^E

Clear height above sidewalk

Dimensional requirements prescribed within each Subarea

C. Wall Sign

A sign placed against a building and attached

^ASign Area to the exterior wall, attached so that the display surface is parallel with the plane of the wall.

^B

Projection from building

Dimensional requirements prescribed within each Subarea

ii. Internal illumination

Channel letters may be internally lit or back-lit. Exposed neon may be used for lettering and for accent only.

iii. Prohibited sign illumination

Blinking, flashing, chasing, and bare-bulb sources of sign illumination are prohibited. Light emitting diode (LED) illumination is prohibited.

I. Electronic Message Displays

Electronic message displays are prohibited. This includes all types of electronic message display, include static display, moving or traveling text, scrolling, video, or any animated content. This provision does not prohibit LED bulbs within non electronic message displays .

J. Sign Materials

- All signs must be of professional quality and constructed of durable, weather resistant materials.
- All wood signage components must be sealed and protected from the elements. Unpainted or unfinished treated and untreated lumber is not permitted.
- Signage materials must be of complementary color, character, type, and quality to those found on the related principal structure.

Appropriate Sign Lighting

External light source

Backlit sign

Exposed neon lettering

Internal light source

K. Multi-tenant signs

A Multi-tenant sign plan must be submitted to the Building Inspector for all sites occupied by more than one tenant. The plan must indicate consistency with sign size and material requirements in this Section. The Building Inspector may approve changes to multi-tenant signs that conform to these requirements.

L. Temporary, Incidental and Directional Signs Temporary, incidental, and directional signs are regulated by Chapter 77. Temporary signs in the Downtown Mixed-Use District may cover up to 20% of the window area and may include event posters, flyers, real estate listings, and window paintings, provided they remain up for no more than seven days.

M. Indemnity Agreement

All applicants proposing signs that encroach into the public right-of-way must provide an indemnity agreement, in a form acceptable to the City, holding harmless and indemnifying the City, its officers and employees from and against any and all claims and liability resulting from encroachment into the public right of way. Applicants must also provide proof of insurance acceptable to the City and naming the City as an additional insured on a primary, non-contributory basis.

N. Removal of Signs

All signs must be in compliance with the City Code Sign Permits Chapter 77. Any sign, existing on or after the effective date of this Section, which no longer advertises an existing business conducted or product sold on the premises upon which the sign is located, shall be removed within 30 days of the discontinuance of the business.

A. Awning Sign

No portion of a wall sign may project above the roof
Wall signs may be internally or externally illuminated. line or above the parapet wall of a building with a flat roof. A wall sign may not cover windows or architectural details.

D. Window Sign

A sign affixed to the inside of a window or door, or a sign placed inside a building within 12 inches from the window or door that is visible and legible through such window or door.

Non-temporary signs adhered to windows or doors must be made of transparent materials, including but not limited to transparent plastic with lettering painted or attached to them.
Allowed on upper story windows for commercial uses.

^A
Area of windows and doors that may be covered by signs. Dimensional requirements prescribed within each Subarea

Window signs may be internally illuminated only.

E. Monument Sign (Single and Multi-tenant)

A sign attached to the ground along its entire length upon a continuous pedestal.

One monument sign allowed for each frontage along a Primary or Secondary Street.
Must be set back at least 5 feet from the front property line and in no case may interfere with safe vehicle and pedestrian traffic.
Must be no closer than 100 feet from any other monument sign located on the same frontage.
Monument signs must be constructed of materials and colors that are consistent with the building that is being advertised. The base of the sign must run the entire horizontal length of the sign and shall contain no sign copy.
A monument sign may be used as a multi-tenant directory sign indicating the name of the occupants of a building or multiple buildings. Each business may have no more than one sign within the multi- tenant monument sign.

^ASign Area
^BHeight
^CWidth
Dimensional requirements prescribed within each Subarea
Multi-tenant Monument Sign

Monument signs may be externally illuminated only.

F. Sidewalk Sign

A movable sign not attached to the ground or building.

A Sign Area

B

Height

Width

Dimensional requirements prescribed within each Subarea

Each ground floor tenant may have one sidewalk sign.

A sidewalk sign must be located at least 25 feet from any other sidewalk sign.

Sidewalk signs must be placed indoors at the close of each business day.

Sidewalks cannot obstruct vehicular or pedestrian traffic and must comply with ADA clearance and accessibility requirements.

Sidewalk signs may not be illuminated.

C

F. REGULATIONS PERTAINING TO SUBAREAS

The following regulations shall apply to property within each corresponding Subarea.

This page intentionally left blank

1. D-1 Traditional Downtown Subarea

Eric Cantel

D-1 Subarea Standards

The D-1 Subarea is intended to accommodate a mix of compatible uses in a variety of building types that do not exceed 4 stories. Special focus is placed on preserving and enhancing the historic character, vibrancy, and walkable nature of the area in and around Webster Street and Sweeney Street.

Guiding Principles:

- Maintain and improve the "main street" atmosphere along Webster, Main and Sweeney Streets.
- Encourage a mix of uses that promote activity.
- Provide pedestrian and bicycle amenities.
- Building facades should be built to the street to create vertical definition and narrower streetscape proportions.
- Building ground floors should be active and transparent.
- Vehicle parking is located behind the building or provided on-street (angled or parallel).

D-1 Subarea Standards
Site Requirements
Building Placement

Lot Depth no min/180' max
Lot Width no min/200' max

Not required in the D-1 Subarea

AAPrimary Street 0'/5'

B
BSide Street 0'/5'
CSide Interior 0'/none
D
Rear 0'/none

Primary Street 75%
Side Street 50%

Site Landscaping • Not required on Primary and
Side Street.
• Required within rear and interior setbacks greater than 5 feet
Screening
• Required for service areas & ground mounted equipment

D-1 Subarea Standards
Building Height Facade Requirements

Primary Structure
AGround Story 75%
AMax 45'
BUpper Story 60%
B
Min 25'

Chimney, flue, vent stack 5'
Brick and tile masonry
Elevator/stairway access to roof 12'
Cementitious siding
Parapet Wall 4'
Glass curtain wall
Mechanical Equipment 6'
Native stone
Skylights/solar panels 9'
Wood clapboard or shingles

c

Entrance street
facing primary
Required

D-1 Subarea Standards
Parking Parking Lot Screening

Primary Street Not allowed between
street and building facade Side Street Not allowed between
street and building facade

Primary Street Setback n/a
Side Street Setback n/a
Rear Setback 5' min
Alley 0' / min

Vehicle Parking none
Bicycle Parking Per Subsection D-7

Side Street n/a
Rear 3' min

Continuous row of shrubs at least 36 inches in height
Breaks for pedestrian access and driveways are permitted
*A decorative fence of at least 36 inches in height and no higher than 4 feet, may be used to fulfill these
screening requirements. The fence must meet the requirements of Subsection D-8 and Article 133- 33,
Fences, Walls, and Other Structural Screening Elements.
D-1 Subarea Standards
Signs Standards

Facade facing a Primary Street 40 sf
Awning Sign 1 per facade
Facade facing Side Street 40 sf
Monument Sign Not permitted
Projecting Sign 1 per facade
Sidewalk Sign 1 per establishment
Wall Sign 1 per facade
Window Sign 1 per facade
Signs not expressly permitted in this Section are prohibited.

Sign Area (max) 25% of awning area
Maximum Lettering Size (max)

Projection from building (max) 3.5'
Depth (max) 6"
Height (max) 6'

Clear height above sidewalk (min) 10'

Sign Area 6 sf
16" high
Height 3'
Width 2'

Not permitted

Sign Area 1 sf per foot of building length Projection from building 12 inches

Area of a window that may be covered by signs. 20% of the window area in which the sign is placed

This page intentionally left blank

2. D-2 High Density Downtown Subarea

Erie Canal

The D-2 Subarea is intended to provide a variety of urban housing choices with medium-to-large footprints that reinforce the neighborhood's historic and walkable nature. This Subarea is intended to accommodate buildings up to 6 stories.

Guiding Principles:

- Provide a mixed-use environment, focusing on residential uses supported by ground floor neighborhood businesses, restaurants, and retail.
- Building facades should be built to the street to create vertical definition and narrower streetscape proportions.
- Building ground floors are active and transparent.
- Vehicle parking is located behind the building or provided on-street (angled or parallel).
- New development and modification to existing structures is compatible with the existing historic character of the District.

^Lot Depth no min/200' max

^B
Lot Width no min/200' max

Building Site Requirements
Placement

^cLots over 5,000 sf 10% (15% for buildings that include residential uses)

^APrimary Street 0'/10'

^BSide Street 0'/10'

^CSide Interior 5'/15'

^D
Rear none

Primary Street 75%
Side Street 50%

Site Landscaping Not required on
Primary and Side Street. Required on Rear and interior setbacks greater than 5 feet.
Screening Required
For service areas & ground mounted equipment.

Building Height Facade Requirements

^AMax 70'

^AGround Story Facade 70%

^B
Min 25'

^BUpper Story Street Facing Facade 50%

Chimney, flue, vent stack 5'
Brick and tile masonry
Elevator/stairway access to roof 12'
Cementitious siding
Parapet Wall 4'
Glass curtain wall
Mechanical Equipment 6'
Native stone
Skylights/solar panels 9'
Wood clapboard or shingles

^C
Entrance street
facing primary
Required

Parking Parking Lot Screening

Primary Street Setback n/a
Side Street Setback n/a
Rear Setback 5' min
Alley 0' min
Side Street n/a
Rear 3' min

Primary Street Not allowed between
Continuous row of shrubs at least 36 inches in height Side Street street and building
facade Not allowed between
Breaks for pedestrian access and driveways are permitted
street and building facade
*A decorative fence of at least 36 inches in height and no higher than 4 feet, may be used to fulfill these
screening requirements. The fence must meet the requirements of Subsection D-8.

Vehicle Parking none
Bicycle Parking Per Subsection D-7

Signs Standards

Facade facing a Primary Street 75 sf
Awning Sign 1 per facade
Facade facing Side Street 40 sf
Monument Sign Not permitted
Projecting Sign 1 per facade
Sidewalk Sign 1 per establishment
Wall Sign 1 per facade
Window Sign 1 per facade

Sign Area (max) 20% of awning area
Maximum Lettering Size (max)

Sign Area 15 sf max
Projection from building 3.5' max

Depth 6 inches max Clear height above sidewalk 10 ' min

Sign Area 6 sf
16" high
Height 3'
Width 2'

Not permitted
Sign Area 1 sf per foot of building length Projection from building 12 inches
Area of a window that may be covered by signs. 20% of the window area in which the sign is placed

This page intentionally left blank
3. OS- Oliver Street of Shoppes

OS – Oliver Street of Shoppes
This Subarea is intended to accommodate large scale redevelopment of entire blocks. Special focus is on creating cohesive and pedestrian friendly development, with attention given to compatibility with neighboring residential areas and adjacent zoning districts.
Guiding Principles:
• Allow redevelopment of entire blocks.
• Encourage provision of open space.
• Buildings heights of 2-5 stories.
• Allow mixed-use.
• Allow residential uses on ground floor.

^ALot Depth no min/ 200' max
^B
Lot Width no min/ 200' max

Building Site Requirements
Placement

Lots less than 5,000 sf not required
Lots over 5,000 sf 10% or 15% for buildings cthat contain residential use

^APrimary Street 0'/10'
^BSide Street 0'/15'

cSide Interior 5'/15'

D

Rear none

Primary Street 75%

Side Street 50%

Site Landscaping Required within setbacks

Screening Required

For service areas & ground mounted equipment

Building Height & Facade Requirements

AMax 60'

cGround Story Street Facing

60% Facade B

Min 25'

DUpper Story Street Facing

Facade

E

Entrance facing primary street

Brick and tile masonry

Cementitious siding

Glass curtain wall

Native stone

Wood clapboard or shingles

50%

Townhomes (ground story only)

20%

Chimney, flue, vent stack 5'

Elevator/stairway access to roof 12'

Parapet Wall 4'

Mechanical Equipment 6'

Skylights/solar panels 9'

F

Required

Parking Parking Lot Screening

Primary Street Not allowed between

street and building facade Side Street Not allowed between

street and building facade

Primary Street Setback n/a
Side Street Setback n/a
Rear Setback 5' min
Alley 0' min

Vehicle Parking Per Article 103-14
Bicycle Parking Per Subsection D-7

Side Street n/a
Rear 5' min

Continuous row of shrubs at least 36 inches in height *
Breaks for pedestrian access and driveways are permitted *A decorative fence of at least 36 inches in height and no higher than 4 feet, may be used to fulfill these screening requirements. The fence must meet the requirements of Subsection D-8.

Signs Standards

Facade facing a Primary Street 80 sf
Awning Sign 1 per tenant
Facade facing Side Street 60 sf
Monument Sign 1 per street frontage
Projecting Sign 1 per tenant
Sidewalk Sign 1 per tenant
Wall Sign 1 per facade
Window Sign 1 per facade

Sign Area 50% of awning area
Sign Area 6 sf
Maximum Lettering Size 16" high
Height 3'
Width 2'

Sign Area 30 sf
Sign Area 1 sf per foot of building
Height 6'
Projection from building
length
Number of faces 2
(max)
Monuments signs for multi-tenant buildings
12 inches
25 sf per face for 5 businesses, with 3 sf for
each additional business. Total sf not to exceed 50

Area of a window that may be sf.
covered by signs.

Sign Area 15 sf max
Projection from building 3.5' max
Depth 6 inches max
Clear height above sidewalk

20% of the window area in which the sign is placed

10' min

This page intentionally left blank

4. RR - River Road

Eric Canal

RR - River Road

The intent of this Subarea is to accommodate large-scale redevelopment of entire blocks. Special focus is on developing an orderly transition from the D-1 district as well as creating an attractive and welcoming environment along River Road that is inviting to pedestrians from Tonawanda Island and offers connections to the D-1 district.

Guiding Principles:

- Allow redevelopment of entire blocks
- Accommodate mixed-use buildings with office and retail uses
- Focus is on transitioning the River Road corridor into an attractive, human-scale environment that is friendly to drivers, pedestrians, and bicycles.
- Vehicle parking is located at the rear of buildings, below grade, or within the interior portion of a site that contains a group of buildings
- Buildings are 2 -4 stories in height

^ALot Depth no min/200' max

^B

Lot Width no min/200' max

Building Site Requirements
Placement

Lots less than 5,000 sf not required
Lots over 5,000 sf not required

Site Landscaping Required within setbacks
Screening Required

- ^A0'/5'
- ^BSide Street 5'/20'
- ^CSide Interior 5'/none
- ^DRear 5'/none

^E
Primary Street - River
5'/20' Road

Primary Street (not River Road) 50%
For service areas &
Primary Street (River Road) 30%
ground equipment mounted
Side Street 30%

Primary Street (not on River Road)

Building Height Facade Requirements

Max (not pictured) 50'
^AGround floor facade facing

25% River Road ^A

Min 25' Ground story facade facing
all other Primary Streets
^B

Brick and tile masonry
Cementitious siding
Glass curtain wall
Native stone (or synthetic equivalent)
Stucco (cementitious finish)
Wood clapboard or shingles
50%
Upper Story facades facing any street
15%

Chimney, flue, vent stack 5'
Entrance facing primary

Elevator/stairway access to roof 12'
street or side street
Parapet Wall 4'
Mechanical Equipment 6'
Skylights/solar panels 9'
Required

Parking Spaces and Location Parking Lot Screening

Primary Street Setback n/a
Side Street Setback n/a
Rear Setback 10' min
Alley 5' min
Side Street 5' min
Rear 10' min

Primary Streets (other than
Continuous row of shrubs at least 36 inches in height* River Road)
Breaks for pedestrian access and driveways are permitted *A decorative fence of at least 36 inches in
height and no higher than 4 feet, may be used to fulfill these screening requirements. The fence must
meet the requirements of Subsection D-8. Not allowed between street and building facade. Side Street
Allowed between
street and building facade. River Road Not allowed between
street and building facade.

Vehicle Parking Per Article 103-
Bicycle Parking Per Subsection D-7

Signs Standards

Facade facing a Primary Street 130 sf
Awning Sign 1 per awning
Facade facing Side Street 65 sf
Monument Sign 1 per street frontage
(maximum of one on each frontage) Projecting Sign 1 per ground floor tenant/
business Sidewalk Sign 1 per ground floor tenant/
business Wall Sign 1 per tenant/business per
facade Window Sign 1 per business

Sign Area 30% of awning area
Sign Area 6 sf
Maximum Lettering Size 16" high
Height 3'

Width 2'

Sign Area (max) 64 sf

Height (max) 10'

Sign Area 1 sf per foot of building length Number of faces (max) 2

Projection from building 12 inches

Monuments signs for

25 sf per face for 5 multi-tenant buildings

businesses, with 3 sf for each additional business.

Total sf not to exceed 70 sf

Area of a window that may be covered by signs.

Sign Area 15 sf max

Projection from building 3.5' max

Depth 6 inches max

Clear height above sidewalk 10 ' min

20% of the window area in which the sign is placed

G. NUISANCES

1. Performance Standards

The purpose and intent of the following performance standards regulations is to provide not-to-exceed threshold values as a means of protecting the safety and welfare of the residents, visitors and surrounding uses. The performance standards regulations are provided in recognition that certain uses may jeopardize the health and well-being of residents or visitors based on their impacts to the surrounding environment.

A. Applicability

All uses subject to the requirements of this Section may be established and maintained if their operation is approved by the Building Inspector as being in conformance with the standards and regulations limiting dangerous and objectionable elements, such as dust, smoke, odor, fumes, noise or vibration.

B. Performance standards procedures

The Building Inspector, as part of the pre- application conference, shall tentatively identify whether a proposed development will be required to certify compliance with any of the performance standards listed in this Section. Certification may require a signed written statement or presentation of construction detail and a description of the specifications for the mechanisms and techniques to be used in restricting the emissions of any dangerous and objectionable elements.

The applicant must submit plans and an affidavit acknowledging its obligation to conform to the standards at all times. The Building Inspector may require the applicant to show that the construction detail and a description of the specifications for the mechanisms and techniques is in compliance with the standards set forth below.

i. *Vibration:*

No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the lot lines, nor shall any vibrations produced exceed 0.002g peak at up to a frequency of 50 cycles per second, measured at or beyond the lot lines using either seismic or electronic vibration measuring equipment.

Vibrations occurring at higher than a frequency of 50 cycles per second or periodic vibrations shall not induce accelerations exceeding 0.001g single impulse periodic vibrations occurring at an average interval greater than five minutes shall not induce accelerations exceeding 0.01g.

ii. Noise

In the Downtown Mixed-Use District, it shall be unlawful to operate or allow the operation of any sound amplification equipment so as to create sounds that are plainly audible from the boundary line of the nearest residentially occupied property.

For multifamily dwellings, including apartments, condominiums, or other residential arrangements existing on a single parcel or where boundary lines can not readily be determined, it shall be unlawful to operate or allow the operation of any sound amplification equipment so as to create sounds that are plainly audible from any point within the interior of another residential unit in the same complex or within the boundary line of the nearest residentially occupied property. For purposes of this Section, "sound amplification equipment" means a radio, tape player, compact disc player, digital audio player, television, electronic audio equipment, musical instrument, sound amplifier, or other mechanical or electronic sound-making device that produces, reproduces or amplifies sound. This Subsection shall not apply to a special event, mass gathering or other permitted activity by the City.

Any commercial establishment such as a restaurant, or night club with an outdoor balcony or patio must apply for a permit prior to engaging in any outdoor entertainment that produces any noise as defined in this section.

Further, the provisions of this Section shall not apply to entertainment facilities constructed to provide outdoor entertainment owned by City. For the purpose of this Subsection, "plainly audible" means any sound which clearly can be heard by unimpaired auditory senses.

iii. Smoke

The emission of smoke or any other discharge into the atmosphere during

normal operations shall not exceed visible gray smoke of a shade equal to or darker than No. 2 on the standard Ringelmann Chart. (The Ringelmann Chart is a graphic published by the United States Bureau of Mines, which shows graduated shades of gray for use in estimating the light-obscuring capacity of smoke). These provisions applicable to visible gray smoke shall also apply to visible smoke of a different color but with a n apparent equivalent capacity.

iv. Odor

No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable when diluted in the ration of one volume of odorous emission to four volumes of clean air. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail. There is hereby established, as a guide in determining such quantities of offensive orders, in Table III, order Thresholds, in Chapter 5 of the Air Pollution Abatement Manual, Copyright 1959, by the Manufacturing Chemical Association, Inc., Washington, D.C., as said manual and/or table is subsequently amended.

v. Fly, ash, dust, fumes, vapors, gases and other forms of air pollution.

No emission shall be permitted which can cause any damage to health animals, vegetation or other forms of property or which may cause any excessive soiling at any point beyond the boundaries of the maximum allowable concentration set forth in §12-29 of the Board of Standards and Appeals of the New York State Department of Labor, effective October 1, 1956, and any subsequent standards.

H. NONCONFORMITIES

The purpose of this Subsection is to establish regulations and limitation on the continued existence of uses established prior to the effective date of this Code that do not conform to the provisions of this Code. This Section will also provide for the gradual replacement of nonconforming uses with uses that conform to the provisions of this Code. Nonconformities may continue, but the provisions of this Section are designed to limit investment in nonconformities and to bring about their eventual elimination, where appropriate, in order to preserve the integrity of the regulations established in this Code.

1. Nonconforming Uses

A. Authority to Continue

The lawful use of any building or land existing prior to the effective date of this Code or its predecessor may be continued even if such use does not conform to the provisions of this Code.

Any violation of this Code prior to the effective date of this Code will continue to be deemed a violation and no use in violation prior to the effective date this Code may be continued if it does not conform to the provisions of this Code.

B. Replacement, Repair and Maintenance

No alteration or repair of a nonconforming use shall exceed 50% of the value of the property in a ten year period.

Replacement shall comply with the design and materials standards of this Code to the maximum extent practicable as determined by the Building Inspector.

C. Extensions/Expansions

A nonconforming use cannot be extended expanded, enlarged or increased in size, footprint or coverage.

No nonconforming use may be extended to displace a conforming use.

D. Change in Use

A nonconforming use may not be changed to another nonconforming use. A nonconforming use that is changed to a conforming use may not revert back to any nonconforming use. Any nonconforming use may be changed to a conforming use.

E. Discontinuance

When a building or land containing a nonconforming use ceases to be used for the nonconforming use for a period exceeding 90 consecutive days, the use may not be reestablished or resumed.

F. Unsafe Structures

Any structure with a nonconforming use or portion of that structure determined to be

unsafe by the Buildings Inspector may be restored to a safe condition, unless otherwise determined by the Buildings Inspector.

2. Amortization of nonconformities

The following nonconforming uses are subject to the following conditions and must be converted to conforming uses within 5 years of adoption of code.

- Junk Yards
- Auto Service Stations
- Scrap Metal storage or processing
- Billboards
- Outdoor Storage of Equipment Nonconforming uses that become a public nuisance through either the decline in appearance, increase in noise, smoke or vibration are subject to the amortization provisions above.

3. Nonconforming Signs

A. General Provisions

- Nonconforming signs must be properly maintained, but may not be changed to another nonconforming sign, either due to a change in text, cosmetically, or structurally.
- Nonconforming signs may not be structurally or electrically expanded or altered unless such alteration brings the sign into conformance with the provisions of this Section.
- Nonconforming signs may not be relocated to another site on the same property.
- Nonconforming signs may not be re-established after discontinuance for 90 consecutive days.

B. Compliance

Nonconforming signs must be removed or brought into compliance with the requirements of this Section under the following circumstances:

- Change of use classification
- Change of occupancy
- Replacement or repair of any portion of the sign in excess of 50% of the replacement value.
- Removal or replacement of the entire sign structure.

C. Amortization of Nonconforming Signs
Nonconforming signs shall be removed or converted to a permitted sign within one year of official notification of a nonconforming status by the Buildings Inspector. Such notice must be recorded with the City Clerk and mailed to the property owner. If the property owner fails to alter or remove the structure to comply with the regulations set forth in this Section within 10 days following the final date of the amortization period, such sign may be removed or altered by the City at the expense of the owner or sign permittee.

I. ADMINISTRATION

1. Development Review Process A. Application Requirements

Applications must include all information noted in Chapter 103 of the City Code.

B. Preapplication Conference

Prior to completion of a development application, the applicant is encouraged to schedule a preapplication conference with the Building Inspector to discuss application procedures, standards, and regulations of this Section.

A request for a preapplication conference by a potential applicant must be accompanied by preliminary project plans in hard copy format at 8.5 x 11 or 11 x 17. The request must also include a cover letter describing the project, including the parcel number (s) and address of the proposed site, the square footage, height and character of the proposed development.

C. Application Requirements

Applications must be submitted to the Building Inspector on the forms required in Chapter 103. Before review of any application, all associated fees must be paid in full.

D. Completeness Review

The Building Inspector will review the submitted materials for completeness and, within 10 days, either accept the application as complete or request further information from the applicant.

E. Administrative Review

Upon acceptance of a complete application,

the Building Inspector will, within 30 days, review the application for consistency with the requirements of this Section and forward the application to the appropriate City Departments for review and recommendation.

Upon receipt of department comments, the Building Inspector must make an initial determination of compliance with the requirements of this Section and any applicable requirements of the City's Zoning

Code, and prepare a written staff report.

F. Administrative Approval

Applications that comply with all standards of this Section may be processed and approved by the Building Inspector or designee.

G. Site Plan Review

Applications that do not comply with the standards of this Section must complete Site Plan Review, pursuant to the requirements of Chapter 103 of the Code and to the provisions of Subsections G(i) - (iii), below.

i. Planning Board Approval

Pursuant to the requirements of Site Plan Review, the Planning Board may approve applications that do not comply with the standards of the Downtown Mixed-Use District, subject to the criteria in Subsection G(ii).

The Planning Board may conduct a public hearing to make a determination to approve, approve subject to conditions, or disapprove the application. The public hearing shall be held in accordance with the provisions of this Code and the General City Law.

ii. Planning Board Approval Criteria

The criteria herein must be used by the Planning Board in reviewing applications subject to Site Plan review, including all buildings, structures, signs, and other site features:

- The purpose, intent, and Guiding Principles of the Downtown Mixed-Use District are met.
- The proposal is compatible with the surrounding properties.
- The proposal minimizes impacts of noise, light, debris, and other undesirable effects upon abutting properties and the District or Subarea as a whole.
- Loading and refuse areas are adequately screened such that they are not visible from adjacent rights-of-way and abutting properties.
- Ingress, egress, internal circulation, off-street parking, loading/service areas are designed to promote safety, convenience, and provide a high quality pedestrian environment.
- Signage is designed to provide compatibility with building form, shape and color.

iii. Exceptions

This Section does not authorize the Planning Board to approve the following in the Downtown Mixed-Use District:

- Electronic message boards
- A use prohibited by this Section H. Variances & Special Use Permits

Applications that do not meet the requirements of Subsections F and G herein must obtain a variance pursuant to the City Code and the General City Law. Approval of development applications is conditioned upon approval of such variance or special use permit.

I. Historic Preservation Commission

Proposals within the boundaries of the Historic Overlay District shall be reviewed by the Historic Preservation Review Commission, in conformance with Article 103-87.

J. Interpretations

The Building Inspector may provide interpretations of the standards set forth in this Section.