



City of Newburgh Draft Zoning Code Update

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ARTICLE ___ – TITLE SCOPE AND PURPOSES

§ 300-___. Title

This Chapter shall be known and may be cited as the “City of Newburgh, New York, Zoning Ordinance.”

§ 300-___. Introduction and user guide

- A. This Chapter enables the City of Newburgh to protect the diverse character of the City while also giving landowners a range of options and choices for the use, development, and conservation of their land. It is designed to strike a balance between achieving the community's goals as expressed in the City’s Comprehensive Plan and protecting the property interests of landowners, providing a development approval process that is predictable, efficient and fair.
- B. Overview. This section provides a brief overview of what is in the Zoning Law.
- (1) This Chapter divides the City into land use and overlay districts and establishes rules for the use of land in each district. The text is accompanied by a Zoning Map which shows where the various districts are located.
 - (2) The Use Table in Article ___ (§____) tells what uses are allowed in each district. The definitions in §____ explain what the different use categories in the table mean. Several of the uses are also regulated by "supplementary regulations" in Article _____ which are referenced in the Use Table.
 - (3) Article ___ §____, contains dimensional regulations for each district, covering lot size, setbacks, and other requirements about the permissible amount, size, type, and location of development on a lot.
 - (4) Article _____ (§§ through) addresses "overlay" districts, which are special districts designed primarily to protect special resources from inappropriate development and to maintain the City’s character and natural and historic resources. The provisions of these districts apply in addition to those of the "underlying" land use district.
 - (5) Article _____ contains options for flexibility in development patterns, particularly the use of Conservation Development Districts, which preserve open space by concentrating development on a portion of a parcel.
 - (6) Article _____ contains rules for allowing the continuation of buildings and uses that were legal under previous regulations but do not conform to this Chapter. This is sometimes referred to as "grandfathering."
 - (7) Supplementary regulations in Section _____ contain additional requirements for specific types of uses and structures as well as performance standards for all development.
 - (8) Articles _____ explain the procedures for obtaining various types of approvals and permits from the City, including land use permits from the Building Inspector, special permits and site plan approval from the City Planning Board, and variances from the Zoning Board of Appeals. Article _____ contains the procedures for amending this Chapter to change the map or the text.
- C. How to use this Chapter. Landowners and others who use this Chapter are encouraged to meet with the Building Inspector to discuss how this Chapter applies to their property. For any large-scale development (a large business or a development of several homes), it is also a good idea to consult the City’s Comprehensive Plan to understand how to make a proposed development fit within the City’s vision of its future. The usual sequence of steps in using this Chapter is as follows:

- (1) Check the Zoning Land Use District Map to determine what land use district(s) your land is in.
- (2) Check the Overlay District Map(s) to see which of the overlay districts apply to your land. Review the provisions of applicable overlay districts in Article § ____ to see how they may affect what you can do with your land.
- (3) Consult the Use Table and text in § ____, along with any relevant definitions, Article § ____ Definitions to determine whether your proposed use is allowed in that district and what permits may be needed to approve it. Also, check the specific sections that deal with the district your land is located in as well as any supplementary regulations in Article § ____ that may apply to your proposed use. (USE TABLE)
- (4) Consult the Dimensional Table in § _____ to see which setbacks and other dimensional standards apply.
- (5) If your land is in the CDD, review the requirement of a conservation analysis and the various development options provided in §§ ____ through ____ to determine which you want to pursue.
- (6) If you have an existing use that is no longer permitted, or if your existing building or lot does not comply with dimensional standards for your zoning district, §§ ____ and ____ to determine what you can do with it.
- (7) If the Use Table indicates that your proposed use or structure can go forward with just a building permit or a zoning permit, refer to Article § _____. If the use will require a special permit or site plan approval, turn to Article § ____ for the procedures to follow.
- (8) If your proposed use or structure is not permitted, you may want to petition for either a variance from the Zoning Board of Appeals (as provided in § _____) or a zoning amendment from the City Council (as provided in § ____.) These options should be discussed with the Building Inspector before they are pursued. Any zoning amendment must be consistent with the Comprehensive Plan.

§ 300-___. Scope

Except as hereinafter provided:

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the zoning district(s) in which it is located.
- B. No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller yards than is specified herein for the district(s) in which such building is located.
- C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Chapter shall be included as part of a yard or other open space similarly required for another building.

§ 300-___. Purposes

This Chapter has been adopted and deemed necessary to achieve the following purposes

- A. To promote the orderly development and redevelopment of the City.
- B. To recognize, preserve, and promote the character of the City, which is one of a mixed use, tightly knit, and urban nature.
- C. To promote the goals and objectives of the Comprehensive Plan.

- D. To establish the appropriate location of various uses, buildings, and open spaces necessary to protect public health and safety.
- E. To provide a range of housing opportunities for all segments of the population with due consideration of regional housing needs
- F. To encourage a range of business activities in appropriate locations by concentrating businesses in or near transportation corridors, promote economic development by building on the tremendous physical, aesthetic, and historical assets of the City.
- G. To preserve the historic and architectural features and districts that make Newburgh unique and desirable, as well as form the basis for the overall character of the community
- H. To promote the appropriate use and enjoyment of the public spaces of the City, including sidewalks, streets, parks, and the waterfront.
- I. To conserve the natural resources of the City by encouraging development in appropriate locations and by limited building in areas where it would adversely affect the City's ecological habitats.
- J. To improve transportation facilities in areas designated for more intensive development, taking advantage of existing regional transit programs and encouraging the implementation of new programs.
- K. To reduce traffic congestion on Broadway and other major transportation routes by establishing a pattern of development and circulation that reduces the need for driving, provides alternative routes between destinations, and encourages walking, bicycling and the use of regional transportation services.

ARTICLE __ – DEFINITIONS AND WORD USAGE

§ 300-__ . Definitions and Word Usage

- A. Except where specifically defined herein, all words used in this Chapter shall carry their customary meanings. Words used in the present tense include the future and the plural the singular. The word “shall” is intended to be mandatory, while “should” is not; and “occupied” or “used” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied.” In general, this Chapter uses the word “permitted” to describe an action that requires a permit and “allowed” when a permit is not required.
- B. Definitions
- (1) **ACTIVITY FACILITY:** A business which, for compensation, offers indoor recreational activities such as dance studios, martial arts studios, arts and crafts studios, musical or theatrical instruction, children’s gyms and play centers, and other places of public or private entertainment. Activity facilities shall not include facilities intended primarily for spectator activities, such as, but not limited to stadia and arenas, automotive tracks, bowling alleys, billiard parlors, Billiard Parlors, or amusement parks.
 - (2) **ADULT DAY CARE FACILITY:** An establishment for adults which provides for hire day-care services to adults who, by reason of physical or other limitations associated with age, physical or mental disabilities or other factors, are unable or substantially unable to live independently without supervision.
 - (3) **ADULT USES:** An adult bookstore, adult motion picture theater, or adult entertainment cabaret, as defined elsewhere herein.
 - (a) **ADULT BOOKSTORE:** An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, or other periodicals, films, slides and videotapes, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or exposing specified anatomical areas.
 - (b) **ADULT MOTION PICTURE THEATER:** An enclosed building used primarily for presenting material motion pictures, films, slide shows or videotapes distinguished or characterized by an emphasis on matters depicting, describing or relating to sexual activities or exposing specified anatomical areas.
 - (c) **ADULT ENTERTAINMENT CABARET:** A building or portion thereof regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of sexual activities or specified anatomical areas for observation by patrons therein.
 - (4) **AMUSEMENT CENTER:** A place of business wherein three or more coin-operated machines, games of skill or chance or other machines of a similar nature are available for use or play by the general public.
 - (5) **ANIMAL CARE FACILITY:** Any building or portion of a building designed or used for the care, observation, or treatment of domestic animals, or for the keeping, breeding or boarding for compensation of dogs, cats, or other domestic animals, when such boarding is for more than three consecutive hours.
 - (6) **APARTMENT HOUSE (SAME AS MULTIFAMILY DWELLING):** A residential building that contains more than four or more dwelling units, with one primary entrance to access all dwelling units contained therein. An apartment house may include accessory uses shared by residents of the apartment house, including recreational facilities, laundry rooms, parking, seating areas and open space for the exclusive use of residents residing in the complex.

- (7) **APARTMENT, ACCESSORY:** A self-contained residential dwelling unit, clearly incidental and secondary to the principal dwelling of which it is a part, having a separate entrance and containing separate cooking, eating, sanitation and sleeping facilities for the exclusive use of the occupant in a one-family dwelling, or in a separate accessory structure on the same lot as a one-family dwelling.
- (8) **ASSEMBLY HALL/BANQUET HALL:** Buildings in which the primary or intended occupancy or use is the assembly for amusement, athletic, civic, dining, educational, entertainment, political, recreational, religious, social, or similar purposes, except an assembly hall shall not include any use defined elsewhere herein, in which kitchen facilities may or may not exist.
- (9) **AUTOMOBILE - GASOLINE STATION:** Any building or land area used for the retail dispensing or sales of automobile fuels, which activity may be accompanied by accessory uses such as sales of lubricants, tires, accessories or supplies, and prepackaged food items and tangible consumer goods, primarily for self-service by the customer.
- (10) **AUTOMOBILE SALES:** Any building, land area or other premises used for the display, sale or lease of new or used automobiles, vans, trucks, trailers or boats, but not including any repair work. Such facilities may or may not conduct repair services as an accessory use other than warranty other minor repair service.
- (11) **AUTOMOBILE WASH:** Any building or land area, the use of which is devoted to the business of washing or waxing automobiles for a fee, whether by automated cleansing devices or otherwise.
- (12) **AUTOMOBILE-SERVICE/REPAIR:** Any area of land, including structures thereon, available to the public, operated for gain, and which are used for repair, greasing, washing, servicing, adjusting, or equipping of automobiles or other vehicles
- (13) **BANK:** A financial institution that is open to the public and engaged in deposit banking, and that may perform closely related functions, such as making loans, investments, and fiduciary activities.
- (14) **BAR:** A commercial establishment, open to the general public, which sells and serves alcoholic beverages for consumption on the premises and where food may be served as an accessory use. The term “bar” includes “barroom”, “wine bar”, “tavern”, “pub” and “saloon”.
- (15) **BASEMENT:** A story that is wholly or partly below grade, but at least ½ of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.
- (16) **BED AND BREAKFAST:** A lodging facility in an owner occupied dwelling offering from one to five guest rooms, without separate kitchen facilities, for paying, transient guests for a period not to exceed 15 consecutive days per guest. A dining room and kitchen may be provided for serving guests of the facility, but shall not be open to the public.
- (17) **BILLIARD PARLOR:** A building, or portion thereof, having within its premises three or more pool tables, billiard tables, or a combination thereof.
- (18) **BOARDING HOUSE:** A dwelling unit, with common rooms used and accessible to all residents, within which are boarding units that are rented individually and occupied for sleeping and/or living purposes to non-transient occupants. A boarding house shall not be considered to be a rooming home.
- (19) **BOARDING UNIT:** Any room or group of rooms forming a habitable unit used or intended to be used for living or sleeping but not used for cooking purposes.

- (20) **BOAT REPAIR:** A facility where boats are repaired and may be stored.
- (21) **BOWLING ALLEY:** Indoor facility for the sport of bowling, with customary accessory uses, such as snack bars.
- (22) **BUILDING, ACCESSORY:** A building, the use and size of which is incidental to, and complimentary of, the principal building on a lot.
- (23) **BUILDING, FRONT LINE:** The line of the face of the building nearest the front lot line. The face includes covered porches, but does not include steps.
- (24) **BUILDING, MAIN (PRINCIPAL):** The building in which is conducted the primary use of the lot on which it is located.
- (25) **BUILDING:** (includes “structure”) Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.
- (26) **CABARET:** Any room, place, or space in which any musical entertainment, singing, dancing, or other similar amusement takes place in connection with a bar and/or restaurant, except for an Adult Cabaret.
- (27) **CAR RENTAL:** A business that rents vehicles to persons or businesses for their own use on a transient basis. The business may include on-site facilities for servicing, storing, repairing, and fueling the vehicles.
- (28) **CELLAR:** That space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.
- (29) **CEMETERY:** A place used for the interment of human or animal remains or cremated remains.
- (30) **CHILD DAY CARE CENTER:** A facility that is not also a dwelling unit that provides care for infants and preschool children and may offer pre-kindergarten educational services, on a regular basis for more than three hours per child and is defined in 18 NYCRR Part 413 and regulated in accordance with 18 NYCRR 418.
- (31) **COLLEGE/UNIVERSITY:** An institution for post-secondary education, which is licensed by the State of New York to grant associate, baccalaureate, or higher degrees.
- (32) **COMMERCIAL LAUNDRY:** An establishment that launders and/or dries articles for commercial, and not individual, customers.
- (33) **COOPERATIVE HOUSE:** A dwelling unit that is rented as a singular unit and not occupied by a family, as defined in this Chapter, within which are two or more boarding units occupied for sleeping and/or living purposes by non-transient occupants. A cooperative house shall not be considered to be a rooming house.
- (34) **COTTAGE INDUSTRY:** A use that is conducted wholly within an enclosed building that involves the manufacturing, production, processing, fabrication, assembly, treatment, repair, or packaging of finished products predominantly from previously prepared or refined materials (or from raw materials that do not need refining). Light industry is capable of operation in such a manner that does not cause a noticeable amount of noise, dust, odor, smoke, glare, or vibration outside of the building in which the activity takes place. Such a use may or may not contain retail space. A machine shop is included in this category.
- (35) **COVERAGE, BUILDING:** The area of the lot that is covered by all of the buildings on the lot.

- (36) CURB LEVEL: The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line. Where a building is on a corner lot, the curb level is the average of the mean levels of the curb line on the two intersecting streets. Where there is uncertainty about the curb level, it shall be determined by the Building Inspector.
- (37) DISTRIBUTION FACILITY / WAREHOUSE: A facility involving the storage and shipment of goods in allotments. This use does not involve the manufacture or sale of goods from the premises.
- (38) DORMITORY: A building intended or used principally for sleeping accommodations, where such building is directly related to an educational or public institution, or house of worship. Such a building may include common kitchen and gathering rooms, but does not contain complete dwelling units.
- (39) DRIVE-THRU (BANK, FAST FOOD RESTAURANT, PHARMACY): An establishment that dispenses products or services to patron who remain in vehicles.
- (40) DRY CLEANER: An establishment for the on-premises mechanical cleaning of garments, articles or goods of fabric for retail customers or where drop-off and pick up occurs for garments or articles that are sent to another location for mechanical cleaning or laundering. A dry cleaning establishment does not include a laundry or laundromat, which provides self-service washing or drying for use by retail customers.
- (41) DWELLING UNIT: A single unit with one or more rooms with provisions for living, cooking, sanitary and sleeping facilities arranged for the use of one family, only.
- (42) DWELLING, DETACHED: A dwelling having no common walls, floors or ceilings with any other dwelling unit.
- (43) DWELLING, FOUR-FAMILY: A building containing four dwelling units only, on a single lot of record.
- (44) DWELLING, MULTI-FAMILY: See APARTMENT HOUSE.
- (45) DWELLING, ONE-FAMILY: A detached building containing not more than one dwelling unit and not having more than one kitchen.
- (46) DWELLING, ROW OR ATTACHED (TOWNHOME): A dwelling, having common walls with one or more dwelling units, also referred to as a "townhome." A row dwelling sharing one common wall shall be deemed an end unit. This term shall also refer to two dwellings sharing one party or lot line wall and commonly referred to as a "duplex."
- (47) DWELLING, THREE-FAMILY: A building containing three dwelling units only, on a single lot of record.
- (48) DWELLING, TWO-FAMILY: A building containing two dwelling units only, on a single lot of record.
- (49) DWELLING: Any building or portion thereof designed or use exclusively for non-transient residential use.
- (50) FAMILY DAY CARE : A facility located in a residential structure, which is owner-occupied as a family residence, that provides daytime care of more than three hours per day per child for three to twelve infants and pre-school children for compensation. A Family Day Care includes those day care facilities defined by New York State in 18 NYCRR Part 413 as “Family Day Care Home” and “Group Family Day Care Home”. Such facility must be licensed by New York State and operated in accordance with all applicable regulations.

- (51) **FAMILY:** One, two, or three persons occupying a dwelling unit; or, four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.
- (52) **FLOOR AREA, BUILDING:** The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to residential use but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.
- (53) **FRONTAGE OCCUPANCY –** A lot’s frontage occupancy is the percentage of the lot width which must be occupied by either a front building façade or structures that screen parking, located within the area of the front lot line and the maximum front yard setback.
- (54) **FRONTAGE:** The length of a lot that borders a single street.
- (55) **FUNERAL HOME:** The establishment of a funeral director or undertaker, which includes facilities for the conduct of funeral services, but not cremation.
- (56) **GARAGE, PRIVATE:** Part of a principal residential building, or an accessory building located on the same lot as the principal residential building, designed primarily for the storage of motor vehicles.
- (57) **HEIGHT, BUILDING:** The vertical distance measured from curb or grade level at the front of the building to the highest level of a flat or mansard roof or to the average height of a pitched, gable, hip or gambrel roof, excluding bulkheads, and similar constructions enclosing equipment or stairs, provided that they are less than 12 feet in height and do not occupy more than 30% of the area of the roof upon which they are located.
- (58) **HOME OCCUPATION:** Any use customarily conducted entirely within a dwelling or its accessory structures and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.
- (59) **HOTEL:** A building, or portion thereof, containing rooms occupied by transient guests who are lodged with or without meals and in which there may be provided such services as are accessory and incidental to the use thereof as a temporary residence, such as dining, conference centers, recreational facilities and gift shops for the guests of the hotel.
- (60) **HOSPITAL:** An institution, licensed by the State of New York, which provides primarily transient or acutely needed human physical and/or mental health services and which includes inpatient facilities.
- (61) **HOUSE OF WORSHIP:** A building, or portion thereof, together with its accessory buildings and uses, where persons regularly assemble for religious worship and related religious services and social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain ceremonies and purposes.
- (62) **INDUSTRIAL USES:** A business use or activity at a scale greater than home industry, involving the manufacture, fabrication, processing, reduction, assembly, or destruction of any article, substance, or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof.
- (63) **LOT LINE:** Any line dividing one lot from another or separating lot from a street right-of-way line.
- (64) **LOT, CORNER:** A lot at the junction of, and having frontage on, two or more intersecting streets.
- (65) **LOT, DEPTH:** The mean distance between the front and rear lot lines, measured in the general direction of its side lot lines.

- (66) LOT, THROUGH: A lot having frontage on two streets, but not at the intersection of those two streets.
- (67) LOT, WIDTH: The mean distance of a lot measured at right angles to its depth, at the required setback line.
- (68) LOT: (Includes “plot”) A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this Chapter.
- (69) MEMBERSHIP CLUB: An unincorporated association of persons for common social purpose or an association incorporated under the Membership Association Law, and which association or membership corporation is not conducted for profit and is not a part of, related to or associated with a profit-making venture and which is managed by officers or directors, serving without pay and chosen or elected directly by members who form such an association or membership corporation.
- (70) MOBILE HOME: A structure mounted on axles and wheels containing living facilities and which was designed to be towed by automobile or truck from place to place. Such structure will not be considered a mobile home for purposes of this chapter if it is placed upon a permanent foundation and modified to meet applicable building code requirements for a residential structure.
- (71) MOTEL: See ‘hotel’.
- (72) MUSEUM: A building serving as a repository for a collection of natural, scientific or literary curiosities, objects of interest or works of art, and arranged, intended and designed to be used by members of the public for viewing, with or without an admission charge, together with customary accessory uses including, for example, retail sale of goods to the public; caf food service; art, dance and music performances; literary readings and showing of films.
- (73) NONCONFORMING LOT: Any lot lawfully existing on record on the effective date of this Chapter, or any amendment thereto, that does not meet the bulk and area requirements of this Chapter for the zoning district in which such lot is situated as a result of the enactment.
- (74) NONCONFORMING STRUCTURE: Any building lawfully existing on the effective date of this Chapter, or any amendment thereto, that does not meet the bulk and area requirements of this Chapter for the zoning district in which such building is situated as a result of the enactment.
- (75) NONCONFORMING USE: Any use lawfully existing on the effective date of this Chapter, or any amendment thereto, that does not conform to the district use regulations of this Chapter for the zoning district in which such use is situated as a result of the enactment.
- (76) NURSING HOME: An institution, licensed by the State of New York, which provides nursing care and related medical services on a 24-hour basis to primarily non-transient clients for remuneration.
- (77) OFFICE PARK: A group of two or more principal buildings and their accessory uses, together with any open space as are remaining, located on one lot, which buildings have a unified site plan and shall be designed to function as one project. The buildings in an “office park” shall be occupied or used principally for businesses or professional offices that are designed, constructed, and maintained on a coordinated basis.
- (78) OPEN SPACE: That portion of the lot that is unencumbered by any structure or any other impervious surface.

- (79) **PARKING AREA, COMMUNITY:** A building, or part thereof, or a surface used for parking vehicles for remuneration.
- (80) **PARKING SPACE:** A space, available off of the street, available for the parking of one motor vehicle.
- (81) **PARKS, OPEN SPACE, AND RECREATION:** Those areas owned or used by the City, other public entity or government, or non-profit organizations that are devoted to parks, playgrounds, recreation areas, nature preserves, or open space.
- (82) **PERSONAL SERVICES:** An establishment that is primarily engaged in frequent or recurring provision of individual services generally related to personal needs, and is not separately defined herein. These uses may also include accessory retail sales of products related to the services provided. Examples of personal services are barbershops, nail salons, massage facilities, tailors..
- (83) **PROFESSIONAL OFFICE:** The office of a member of a recognized profession maintained for the conduct of that profession in any of the following related categories: architectural, engineering, planning, law, interior design, accounting, insurance, real estate, medical, dental, optical, or any similar type of profession.
- (84) **PUBLIC UTILITY:** Any person, firm, corporation, or governmental agency duly authorized to furnish to the public, under governmental regulation, electricity, gas, water, sewage treatment, steam, cable television, telephone, or telecommunications but shall not mean any person or entity that provides wireless telecommunications services to the public.
- (85) **RECREATIONAL VEHICLE:** A vehicular unit, which is designed as a temporary dwelling for travel, recreational, and vacation use, and which is either self-propelled, mounted on, or pulled by another vehicle. Examples include, but are not limited to a travel trailer, camping trailer, truck camper, motor home, fifth-wheel trailer, or van camper.
- (86) **RESIDENTIAL CARE FACILITY:** An supervised residential board and care establishment, used as a group residence or extended care facility for the care of persons, where compensation and/or reimbursement of costs is paid to an operator, pursuant to state or federal standards, licensing requirements, or programs funding residential care services. The residential care facility provides common eating facilities for residents and common meeting or social or recreation areas. Such housing may also include daily activity assistance, such as dressing, grooming, bathing, etc.
- (87) **RESTAURANT:** Any establishment where the principal use is the preparation and sale of food and beverages, to customers seated at a table or counter, served by a waier or waitress, or at a buffet for consumption on premises. A restaurant may include the serving of alcoholic beverages and the provision of carry-out food service if they are incidental to the consumption of food and beverages. The term “restaurant” does not include a business whose principal operation is as a bar, cabaret, carry-out food service, or fast-food establishment.
- (88) **RETAIL:** A business that sells goods directly to the general public, for business, personal or household consumption, where such goods are available for immediate purchase and removal from the premises by the purchaser and are not defined elsewhere in this chapter. Retail businesses include but are not limited to: hardware stores, liquor store, newsstand, shoe store, stationery store, convenience store.
- (89) **ROOMING HOUSE:** Any dwelling, other than a boarding house, within which are boarding units rented individually and occupied for sleeping and/or living purposes to non-transient occupants. No common rooms are provided for the use of the residents.

- (90) **SCHOOL OF GENERAL INSTRUCTION (EDUCATIONAL SERVICES):** Any public school operated under the laws of the State of New York or nonpublic school offering courses in general instruction at least five days per week and seven months per year and generally serves students in grades corresponding to Pre-K through 12th grade.
- (91) **SELF STORAGE:** A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for storage of personal property.
- (92) **SETBACK:** The horizontal distance from such lot line to the part of the building which is nearest to such lot line.
- (93) **SHOPPING CENTER:** An area planned, as a whole with one site plan approval, for occupancy of three or more retail stores, light industrial uses, or professional offices with common accessory parking, that are designed, constructed, and maintained on a coordinated basis.
- (94) **SIGN:** Includes every sign, billboard, ground sign, wall sign, roof sign, illuminated sign, projecting sign, temporary sign, marquee and canopy and shall include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person when the same is placed out of doors in view of the general public.
- (95) **STORY, HALF:** A story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story
- (96) **STORY:** That portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds 1/3 of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story when its ceiling is six or more feet above the finished grade. A cellar shall not be deemed to be a story if unfinished and without human occupancy.
- (97) **STREET:** A public or private way which affords the principal means of access to abutting properties.
- (98) **TATTOO PARLOR:** Any building or premises in which a tattooist lawfully conducts their practice of marking a body with indelible ink or pigments.
- (99) **TAXI SERVICE:** A service that offers transportation in motor vehicles to persons for compensation. The business may include facilities for servicing, storing, repairing, and fueling the vehicles.
- (100) **TECHNICAL SCHOOL:** A school established to provide for the teaching of industrial, clerical, managerial, trade, or artistic skills.
- (101) **THEATER/AUDITORIUM:** A place of public assembly used for spectator presentations including dramatic, operatic, musical, dance, motion picture, or other performance, with temporary or permanent seating, for admission to which entrance money is received.
- (102) **TOWNHOME:** See "dwelling, row or attached."
- (103) **TRAILER:** Any vehicle without motive power, designed to be towed by a motor vehicle, except as defined elsewhere herein.
- (104) **TRANSIENT:** Temporary daily or weekly occupancy.
- (105) **USE, ACCESSORY:** A use that is clearly incidental to the principal use of a building or lot.
- (106) **WHOLESALE:** An establishment primarily engaged in the display, storage, distribution and sale of merchandise to retailers; to industrial, commercial, institutional, or

professional business users; or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling to, such individuals or companies. Such establishments are not generally open to the general public.

- (107) YARD (front, rear, side): The portion of the lot between the lot line and the required setback; or, if no minimum setback is required, the portion of the lot between the lot line and the façade of the building.

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ARTICLE __ – ADMINISTRATION

§ 300-__ . Administration and Enforcement Official

- A. The provisions of this Chapter shall be administered and enforced by the Building Inspector in accordance with the provisions established in Chapter 122, §§ 122-1 through 122-27 of the Code of the City of Newburgh. The Building Inspector shall be provided with the assistance of such other public officials and employees as the City Manager may direct.
- B. No building permit, certificate of occupancy or other permit or license shall be issued if it would be in conflict with the provisions of this Chapter, or Chapter 122, entitled “Administration and Enforcement of Uniform Code”, or Chapter 172, entitled, “Fire Prevention” of the Code of the City of Newburgh, or any other applicable local, state or federal law or regulation.
- C. In accordance with § 122-5 of the Code of the City of Newburgh, the Building Inspector may delegate, in writing, to such other officials the authority to perform inspections, review applications, issue notices of violation and issue permits and to enforce the provisions of this Chapter. In the performance of such functions, these officials shall be responsible to the Building Inspector, and the Building Inspector shall be responsible for the work that they perform.

§ 300-__ . Applicant’s Requirements

- A. In order to apply to the City Planning Board, Zoning Board of Appeals, or Architectural Review Commission, except as specifically provided for elsewhere in this Chapter, the Applicant must have a certain legal interest in that for which he is applying, which interest must be one of the following:
 - (1) Owner.
 - (2) Contract Vendee/Purchaser or holder of an option to purchase wherein the purchase agreement or option is binding and subject to cancellation only based solely on the adjudication of the Application.
 - (3) A verified agent of one of the above. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application.

§ 300-__ . Schedule of Fees, collection procedures

- A. The schedule of fees for applications made pursuant to this Chapter shall be as specified in §163-1, Schedule of Code Fees, of the Code of the City of Newburgh. A copy of this schedule and the procedure for collecting those fees City shall be available in the office of the Building Inspector.

§ 300-__ . Escrow

- A. Escrow deposits.
 - (1) In accordance with §163-1 of the Code of the City of Newburgh, in connection with any application for a special permit, site plan or subdivision approval, zoning amendment, variance, or other appeal, the reviewing board may require an applicant to deposit an initial sum of money into an escrow account in advance of the review of the application. Said sum shall be based on the estimated cost to the City of reviewing the particular type of application before it. The reviewing board may also consider the City’s survey of professional review expenses in determining the initial sum of money to be deposited in an escrow account by an applicant.
- B. Escrow Funds.

- (1) In accordance with §163-1, and §158-5, Environmental Quality Review of the Code of the City of Newburgh, escrow funds shall be used to cover the reasonable and necessary costs of reviewing an application. Costs may include staff costs or consultant fees for planning, engineering, legal, and other professional and technical services required for the proper and thorough review of an application. The reviews governed by this section shall include all environmental review pursuant to law including review of the proposed action under the State Environmental Quality Review Act (SEQR).
- (2) The review expenses provided for herein are in addition to application or administrative fees required pursuant to other sections of the City of Newburgh. Funds deposited by applicants pursuant to this section shall not be used to offset the City's general expenses of professional services for the several boards of the City or its general administrative expenses.
- (3) Fees charged strictly as a result of a SEQR review shall in no event exceed the maximum amounts that can be charged pursuant to the SEQR regulations in §617.13 "Fees and costs" of the State Environmental Quality Review Act.
- (4) Upon receipt of monies requested for an escrow account, the Building Inspector shall remit to the City Comptroller who shall cause such monies to be placed in a separate non-interest-bearing account in the name of the Applicant/Application and shall keep a separate record of all such monies deposited and the name of the applicant and project for which such sums were deposited.
- (5) Itemized vouchers shall be submitted to the City Comptroller for services rendered on behalf of the City regarding a particular application. After review and approval in accordance with § 300 __C (REVIEW OF VOUCHERS; PAYMENT), vouchers shall be paid out of the monies so deposited, and shall debit the separate record of such account accordingly.

C. Review of vouchers; payment.

- (1) The Director of Planning and Development shall review and audit all such vouchers and shall approve payment of only such consultant charges as are reasonable in amount and necessarily incurred by the City in connection with the review and consideration of applications. In auditing the vouchers, the Director of Planning and Development may take into consideration the size, type and number of buildings to be constructed, the topography of the site at issue, environmental conditions at such site, the infrastructure proposed in the application and any special conditions the applicable Board (City Planning Board, Zoning Board, Architectural Review Board) may deem relevant.
- (2) In no event shall an applicant make direct payment to any consultant retained by the City to review applications.

D. If at any time during the processing of an application there shall be insufficient monies within the established escrow account to pay the approved vouchers in full, or if it shall reasonably appear to the reviewing board that escrow funds will be insufficient to meet vouchers yet to be submitted, the reviewing board shall cause the applicant to deposit additional sums as the board deems necessary or advisable in order to meet such expenses or anticipated expenses.

E. In the event the applicant fails to deposit the requested review fees into an escrow account, any application review, approval, permit or certificates of occupancy may be withheld or suspended by the reviewing board, officer or employee of the City until such monies are deposited.

F. Upon completion of the review of an application or upon the withdrawal of an application, and after all fees already incurred by the City have been paid and deducted from the escrow account, any balance remaining in the escrow account shall be refunded within sixty days after the applicant's request.

§ 300-____. Building permits, Certificates of Occupancy and Site Plan Approval

A. Building Permit

- (1) The Building Inspector shall issue building permits and Certificates of Occupancy where appropriate for buildings constructed or altered in accordance with the provisions of the Uniform Fire Prevention and Building Code. In the case of demolition, this permit shall be called a “demolition permit”.
- (2) No building permits or certificates of occupancy shall be issued by the Building Inspector except where all the provisions of this Chapter have been complied with.
- (3) No land shall be used or occupied and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy has been issued by the Building Inspector in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code.

B. Site Plan Approval. Site Plan Approval from the City Planning Board shall be required for the conversion or change in use of any existing building, structure, or parcel of land as provided in §____ALLOWABLE USES and in accordance with the provisions for the Overlay Districts as provided in §____OVERLAY DISTRICTS.

§ 300-____. Application for Building Permit

- A. Applications for Building Permits shall be prepared and submitted in accordance with the regulations provided in the Uniform Fire Prevention and Building Code and any additional regulations provided in the relevant sections of the Code of the City of Newburgh.
- B. All applications required by this Chapter shall be on such forms specified by the Building Inspector. All forms shall be available from, and returned to, the Building Inspector.
- C. Applications shall be accompanied by the additional information required by this Chapter and that may also be indicated on the forms.
- D. Unless otherwise noted on the forms, or written direction from the Building Inspector, applications and supporting material shall be provided in hard copy in a number and size proscribed on the form, and optionally, as digital files.
- E. An application shall not be considered as submitted nor shall it be accepted and processed until the application, completely and correctly filled in, is accompanied by all the minimum basic information and the proper fee as established under this Chapter.
- F. Process to Obtain Permits: The process to obtain necessary permits to erect, occupy, or change the use of a permitted structure or lot are as follows:
 - (1) Any person intending to undertake new construction, structural alteration, or change in the use of a building or lot shall apply to the Building Inspector for a building permit by submitting the appropriate application form and paying the required fee. For rules governing changes of use, see §____-ALLOWABLE, PROHIBITED ACCESSORY AND MIXED USES; CHANGE OF USE, §____OVERLAY DISTRICT REQUIREMENTS.
 - (2) The Building Inspector shall grant or deny the permit as provided in §____ACTION UPON APPLICATION, or refer the application to the City Planning Board (or Zoning Board of Appeals, if appropriate) if a special permit and/or site plan approval is required in accordance with §____SCHEDULE OF USES.
 - (3) If a building permit is issued, the applicant may proceed to undertake the action permitted. Upon completion of any construction, the applicant shall apply to the Building Inspector for a certificate of occupancy (for building permits only).

- (4) If the Building Inspector finds that the applicant's action has been taken in accordance with the building permit, the Building Inspector shall issue a certificate of occupancy as provided in § _____ ACTION UPON APPLICATION, CERTIFICATES OF OCCUPANCY, allowing the structure to be occupied.
- (5) If the Building Inspector denies a building permit and does not refer the application to the City Planning Board, Zoning Board or Architectural Review Board, the applicant may appeal in accordance with the provisions of § 300-_____, REAPPLICATION OF DENIAL.

G. Action Upon Application

- (1) The Building Inspector shall promptly review the application and approve or deny it, providing the reason for denial. A copy of the approved or disapproved application shall be delivered or mailed to the Applicant within a time frame, not to exceed 30 working days of the submittal to the Building Inspector.
- (2) An application with the approval of the Building Inspector shall become effective when the Building Inspector has filed written approval of the permit application. A copy of the building permit shall be placed in the permanent file for the property.

H. Invalid Approval. No building permit shall be valid unless it complies with all provisions of this Chapter. Any permit approved in violation of this Chapter shall be void.

I. Failure to complete construction.

- (1) In accordance with §122-17, Duration of Building Permit; extensions, of the Code of the City of Newburgh, a building permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications on which it is based for a period of six months after the date of its issuance. For good cause, the Building Inspector may allow a maximum of two extensions for periods not exceeding three months each provided an application for extension is received at least 30 days prior to the expiration of such building permit.
- (2) Any structure for which a building permit has been issued which remains partially complete with no substantial progress over a six-month period shall be considered a violation of this Chapter to be remedied pursuant to § 300-_____PENALTIES FOR OFFENSES.

J. Termination of Building Permit. An approved building permit shall terminate and become void if there is no construction of the new use within six months of the date of approval.

K. Withdrawal by applicant. In the event that it is determined by the applicant after the issuance of a building permit and payment of required fee that the proposed construction is not desired and there is no intent to proceed with reference to the same, then and in that event a letter signed by the applicant, expressing his intention not to continue, shall be received by the Building Inspector.

§ 300-____. Certificates of Occupancy.

No building or structure hereafter erected, constructed, enlarged, altered, or moved and no enlarged, extended, altered, or relocated portion of an existing building or structure shall be occupied or used until a certificate of occupancy has been issued by the Building Inspector, in accordance with the provisions of the Uniform Fire Prevention and Building Code, Chapter 172, Fire Prevention of the Code of the City of Newburgh, this Chapter, and any other applicable laws and regulations.

- A. Exception for minor alterations. No certificate of occupancy shall be required for any alteration of or ordinary repairs to an existing building or structure which is not structural in nature and which does not require a building permit pursuant to the provisions of this Chapter, the Uniform Fire Prevention and Building Code, Chapter 172, Fire Prevention, of the Code of the City of Newburgh.

- B. Issuance of certificate of occupancy.
 - (1) The Building Inspector shall examine the location of any new structures or improvements to existing structures and shall determine whether or not such new structures or improvements comply with the setbacks and other requirements of this Chapter, including the terms and conditions of any site plan approval, special permit, variance, subdivision approval, or conservation easement granted. The Building Inspector shall maintain complete records of the dates of inspections conducted hereunder, the names of all persons attending such inspections, the extent of completion of the work on each date, and any other observations relevant to determining compliance with this Chapter.
 - (2) After work has been completed, inspected, and found to be in full compliance with the building permit, the Building Inspector shall issue a certificate of occupancy. A copy of the certificate of occupancy shall be placed in the permanent property file for the property.
- C. Effective date of certificate of occupancy. A certificate of occupancy shall become effective upon filing in the permanent file for the property, together with the building permit and all previous applications and approvals granted.
- D. Failure to complete construction. Any structure for which a building permit has been issued which remains partially complete with no substantial progress over a twelve-month period shall be considered a violation of this chapter to be remedied pursuant to § 300-____, VIOLATIONS AND ENFORCEMENT; PENALTIES FOR OFFENSES.
- E. Before issuing a certificate of occupancy, the Building Inspector must confirm with the City Comptroller that all fees incurred by the City for the review and processing of said application have been paid and deducted from the escrow account. Only when confirmation that all fees have been paid, can the Building Inspector issue the Certificate of Occupancy.

§ 300-____. Reapplication after denial

- A. When an application has been duly processed and denied and no appeal has been made or when an appeal has been made but the body appealed to has sustained the denial, said application shall not be eligible for reconsideration for one year following such denial.
- B. A new application affecting all or part of the same property or use must be substantially different from the denied application to be eligible for consideration within one year of the denial of the original application.

ARTICLE __ – LAND USE AND OVERLAY DISTRICTS

§ 300-__ . Establishment of Districts

- A. For the purposes listed in § 300-, the City of Newburgh is hereby divided into the following Zoning Districts
- B. Traditional Zoning Districts:
 - (1) R-Low: Low Density Residential
 - (2) R-Med: Medium Density Residential
 - (3) R-High: High Density Residential
 - (4) C: Commercial
 - (5) PO: Planned Office
 - (6) Ind: Industrial
 - (7) CDD: Conservation Development District
- C. Form-Based Districts:
 - (1) BC: Broadway Corridor
 - (2) DN: Downtown Neighborhood
 - (3) WG: Waterfront Gateway
 - (4) PWD: Planned Waterfront District
- D. Overlay Districts
 - (1) In addition to these land use districts, the following overlay districts are hereby created
 - (a) EEH: East End Historic District (Overlay)
 - (b) CTA: Colonial Terraces Architectural Design District (Overlay)
 - (c) WPO: Waterfront Protection Overlay
 - (d) NC: Neighborhood Commercial Overlay
 - (2) Overlay districts do not change the use and dimensional requirements of the underlying land use districts, unless specifically so stated in this Chapter. On any given parcel of land, more than one overlay district may apply.

§ 300-__ . Zoning Map.

- A. The location and boundaries of the zoning districts are established as shown on the Zoning Map of the City of Newburgh, attached hereto and made a part of this Chapter.
- B. Re-adoption of Maps. The Official Zoning Map shall be kept in the office of the City Clerk, the Building Inspector/Code Enforcement Official and the Planning Department and shall be reviewed for accuracy and updated at least once annually with any Zoning Map amendments adopted in the previous year by the City Council or its designee.
- C. Zoning map amendment. Changes may be made in district boundaries or other matter portrayed on the Zoning Maps, only by zoning amendments adopted by the City Council pursuant to Article ___ of the Code of the City of Newburgh. Such changes shall be noted by the City Clerk on the Official Zoning Maps promptly after the City Council adopts such an amendment.
- D. Final authority. Each local law adopting an amendment shall be the final authority as to the current zoning status of lands, structures and uses in the City.

- E. Unauthorized Map Changes. Any unauthorized map change made by any person shall be considered a violation of this Chapter, punishable under §___ of this Chapter.

§ 300-___. Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the Zoning Districts, the following rules apply:

- A. Where district boundaries are indicated as approximately following or parallel to the center lines of streets or highways, or the boundaries of streets, highways, or rights-of-way, the district boundary shall be construed as following or being parallel to said center or boundary lines.
- B. Where a land use district boundary divides a lot line in a single ownership existing at the time of enactment of this Chapter, the City Planning Board may grant a special permit to allow the uses authorized and the district requirement of the less restricted portion of such lot to extend up to a maximum of 50 feet into the more restricted portion of the lot. This provision shall not apply to Overlay Districts.
- C. Where district boundaries are so indicated that they approximately follow lot lines in effect at the time of the adoption of the district, the district boundary shall be construed as following said lot line.
- D. Where the boundary of a district follow shorelines, streams, creeks and waterbodies, said boundary shall be deemed to follow such shorelines and, in the event of change in the shoreline, shall be deemed as moving with the actual shoreline.
- E. Where the boundary of a district follows shorelines, creeks, streams, lakes, or other bodies of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the City, State or Federal Agency, unless otherwise indicated.
- F. Within the Water Protection Overlay District, where the overlay district is based upon natural features, such boundaries may be more precisely established through field investigation by a qualified professional.

§ 300-___. Higher Standards to Prevail

In their interpretation and application, the provisions of this Chapter shall be held to the minimum requirements. Whenever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the highest standards, shall govern.

ARTICLE __ – LAND USE DISTRICT REGULATIONS

§ 300-__ . Allowable Uses, Accessory and Mixed Uses; Change of Use

- A. Purpose. The use regulations in this article are intended to allow flexibility of land use to encourage business development that is consistent with the character and scale of the City of Newburgh. In reviewing applications for special permits and site plan approval, the City Planning Board shall impose any conditions that may be necessary to ensure that a proposed use will be compatible with its surroundings. The City Planning Board shall deny any proposed use which does not satisfy the criteria in this Chapter.
- B. Use restrictions and use table. No structure or land shall be used except as provided in the Use Table. In the event that a particular proposed use does not fit into one of the categories shown on the Use Table, it shall be considered to be prohibited.

USE TABLE KEY

- P Designates a use permitted by right. Usually requires a building permit and a certificate of occupancy from the Building Inspector, but does not require review by any municipal board.
- P* Designates a use permitted by right subject to Site Plan Review by the City Planning Board [§ _____ through _____ [SITE PLAN]]
- S Designates a use permitted by Special Permit of the City Planning Board [§ _____ through _____ for Site Plan]
- A Designates a use that is permitted as a use accessory to a use permitted by right, with site plan approval, or with a Special Use Permit.
- C. Prohibited uses. Any use, whether or not listed in the Use Table, is prohibited if it does not satisfy the standards and criteria in § _____ ENVIRONMENTAL PERFORMANCE STANDARDS and § _____ SPECIAL PERMITS AND SITE PLAN REVIEW and § _____ FINDINGS.
- D. Accessory uses. Uses customarily incidental and subordinate to principal uses shown on the Use Table shall be allowed on the same terms as the principal uses, whether or not on the same lot, unless otherwise indicated on the Use Table. Noncommercial recreational use shall be permitted as an accessory use in all districts.
- E. Mixed use. The City of Newburgh encourages the mixing of uses where such mixing does not create land use conflicts. Accordingly, all special permit and/or site plan reviews for the same project shall be consolidated into one proceeding before the City Planning Board (except where the City Council or Zoning Board of Appeals has jurisdiction over a special permit).

City of Newburgh
DRAFT – Chapter 300 Zoning Text

Schedule of Use Regulations											
Use	R-High	R-Med	R-Low	Commercial	Industrial	PO	CDD	Broadway Corridor (BC)	Downtown Neighborhood (DN)	Waterfront Gateway (WG)	Planned Waterfront District (PWD)
Apartment House	P*	P* ¹					P*	P	P	P*	P*
Two, Three or Four-Family Dwelling (new construction)	P	P					P*		P		
Two, Three- and Four-Family Dwelling (in an existing structure)	P	P	P								
Row or Attached Dwelling (Townhome)	P	P					P*		P	P*	P*
Two-Family Detached Dwelling	P	P	P				P*		P		
One Family Detached Dwelling	P	P	P				P*		P* (not allowed on Liberty or Grand)		
Residential Care Facility	S	S	S				P*	P	P	P*	P*
Cooperative House	P	P	S ²					P	P	P*	P*
Accessory Apartment	A	A	A								
Bed & Breakfast	A; S	A; S						A; S	A; S	A; S	A; S
Boarding House	S	S						S	S	S	S
Customary Home Occupation	A; S	A; S	A; S					A; S	A; S	A; S	A; S
Family Day Care, Home	A	A	A					A	A	A	A
Buildings, Uses or facilities of Any Governmental Unit	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Cemetery	S	S	S	S	S	S	S	S	S	S	S
College/University	S	S	S	S	S	S	S	S	S	S	S
Community Center	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Community Parking Area	S	S		P*	P*	P*		S	S	S	S
Dormitories	A	A	A	A	A	A	A	A	A	A	A
Hospital	S	S	S	S	S	S	S	S	S	S	S
House of Worship	S	S	S	S	S	S	S	S	S	S	S
Membership Club	S	S	S	S	S	S	S	S	S	S	S
Museum				S	S	S	S	P*	P*	P*	P*

City of Newburgh
DRAFT – Chapter 300 Zoning Text

Schedule of Use Regulations											
Use	R-High	R-Med	R-Low	Commercial	Industrial	PO	CDD	Broadway Corridor (BC)	Downtown Neighborhood (DN)	Waterfront Gateway (WG)	Planned Waterfront District (PWD)
Parks, Open Space, Recreational Facilities	P	P	P	P	P	P	P*	P	P	P*	P*
Public Libraries	S	S	S	S	S	S	S	S	S	S	S
School of General Instruction	S	S	S				S	S	S	S	S
Activity Facility				P*	P*	P*		P	P	P*	P*
Adult Day Care Facility				S		P*		P	P	P*	P*
Adult Uses				S	S						
Amusement Center				P*	P*			S	S	S	S
Animal Care Facility				P*	P*	P*		S	S	S	S
Assembly Hall				S	S			S	S	S	S
Bank				P*		P*		P	P	P*	P*
Bar				P*	A	P*		P	P	P*	P*
Bowling Alley				P*	P*			P*	P*	P*	P*
Brewing of malt beverages or distilled spirits primarily for on-Site consumption				A; S	P*			A	A	A	A
Business or Professional Office				P	A	P		P	P	P*	P*
Cabaret				S	S			P	P	P*	P*
Car Rental ³				S	P*			S	S	S	S
Cottage Industry				S	P*	S		P	P	P*	P*
Day Care Center	S	S		S		P*		P	P	P*	P*
Drive-Thru (Bank, Restaurant, Pharmacy, etc)				S	S						
Funeral Home				P*				P*	P*	P*	P*
Hotel or Motel				P*				P	P	P*	P*
Marina								P*	P*	P*	P*
Movie or Professional Theater, Indoor concert Venue				S				S	S	S	S

Schedule of Use Regulations											
Use	R-High	R-Med	R-Low	Commercial	Industrial	PO	CDD	Broadway Corridor (BC)	Downtown Neighborhood (DN)	Waterfront Gateway (WG)	Planned Waterfront District (PWD)
Nursing Home	S	S	S	S		S	S	P*	P*	P*	P*
Office Park						P*					
Personal Services				P	A			P	P	P*	P*
Billiard Parlor				P	P*			P	P	P*	P*
Restaurant				P*	A			P	P	P*	P*
Retail Store				P	A			P	P	P*	P*
Rooming House				S				S	S	S	S
Self-Storage					P*						
Shopping Center				P*							
Tattoo Parlor				P				P	P	P*	P*
Taxi Service ³				S	S						
Technical School				S	P*	S		S	S	S	S
Automobile Gasoline Station				S	S						
Automobile Sales ³					S						
Automobile Service/Repair ³				S	S						
Automobile Wash ³				S	S						
Boat Repair					P*						S
Distribution Facility/Warehouse					P*						
Dry Cleaner; Commercial Laundry					P*						
Industrial Uses					P*						
Wholesale					P*						

1. New construction of Apartment Houses in the R-Med District is limited to 10 units per lot.

2. Only allowed east of Robinson Avenue. Special Use Permit valid for one year only.

3. Adequate off-street parking must be identified for the storage, maintenance, repair and fueling of all vehicles. On-street parking, repair, maintenance or fueling of vehicles associated with automobile sales, service/repair, wash, taxi-service or car rental is prohibited.

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- F. Change of use or structure. A change of use is the initiation of a use that is in a different use category, as listed on the Use Table, from the existing use of the site or structure. A change of ownership, tenancy, or occupancy, or a change from one use to another within the same category, shall not be considered a change of use, unless the change would result in the expansion of any existing use or any change of use or a property or structure, enlargement or addition of a sign or an increase of more than 20% in vehicle trip generation as indicated in current trip generation rates contained in the publications Trip Generation or Trip Generation Handbook published by the Institute of Transportation Engineers (ITE).
- (1) Uses by right (P). Any change of use of land or existing structures to a use permitted by right without site plan review (P on the Use Table) shall not require approval from the City Planning Board or the Building Inspector. This shall not affect applicable requirements for obtaining building permits for construction or expansion of a structure from the Building Inspector under Chapters 121,122,125 and 126 of the Code of the City of Newburgh.
 - (2) Uses by right subject to site plan review (P*). Except for one and two family dwellings on a single lot, any change of the use of an existing structure to a use permitted by right subject to site plan review shall require site plan review only if it involves:
 - (a) The development or redevelopment of any property or structure, including but not limited to vacant property, for a new use.
 - (b) Any use requiring a special use permit, subject to any exceptions contained in Article xxx of this Chapter.
 - (c) The expansion of any existing use or any change of use of a property or structure, where the City Planning Board has determined that the alteration will substantially intensify the use or substantially modify the site with respect to the generation of traffic, pedestrian movement, parking needs, noise, glare, exposure to hazard from fire or flood, utilization of water supply, sanitary sewer, drainage or other utility system and may have a substantial impact upon the character or environment of the surrounding area.
 - (3) Uses by special permit (“S” on the Use Table).
 - (a) A special permit shall be required for any change of use from a use that does not require a special permit to a use that does require a special permit.
 - (b) Once a special permit has been granted, it shall run with the land and apply to the approved use and to all subsequent owners, tenants, and occupants engaged in the same use. The special permit shall also apply to any subsequent use of the property in the same use category, provided that such use has no greater impact on adjoining properties, complies with all terms and conditions of the special permit, and does not involve new construction, enlargement, exterior alteration of existing structures, increased parking, or other changed use of outdoor areas. Any change to another use allowed by special permit shall require the granting of a new special permit or a special permit amendment
- G. Rebuilding, replacement, and expansion of structures. The rebuilding or replacement on the same footprint of any structure for a use which requires site plan review (P*) and/or a special permit (S) shall require site plan review, even if it is a continuation of the same use.
- H. Special site design considerations.
- (1) In the CD District. The purpose of the CDD is to encourage conservation of environmental resources in exchange for flexibility in build and area requirements and the potential for granting more intensive development if conservation goals stated in § 300-_____ [CONSERVATION DEVELOPMENT] are achieved. A minimum of 50% of net land area shall be preserved by a permanent conservation easement or deed restriction as open space. Buildings shall have a maximum height of 4 stories or 50 feet and a maximum length of 200 feet. Additional regulations for the CDD are in § 300 _____.

- (2) Buildings shall be placed in front of their parking lots to screen the parking from the road. This requirement shall not apply if the entire site is screened from the road by natural vegetation and/or natural topography. The City Planning Board may modify or waive this requirement where unusual lot configurations such as corner lots or through lots make compliance with this requirement impractical or impossible or where the predominant character of surrounding development is such that compliance with this requirement would serve no useful purpose, provided that the applicant minimizes the visual impacts of such parking areas.

§ 300-___. Density and Dimensional Regulations

- A. Applicability. The Density and Dimensional Regulations in this section apply to the ‘traditional’ zoning districts, as defined in defined in § 300-_____. The density and dimensional regulations for the ‘form-based’ districts, as defined in § 300-_____, are regulated in Article _____ of this Chapter.
- B. Purpose. The restrictions and controls in this section regulate development, as set forth in the *Schedule of Bulk, Area, and Parking Regulations*, which are supplemented by the other sections of this Chapter. This Chapter shall not interfere with or abrogate or annul any easement, covenant or other agreement between parties; provided, however, that when this Chapter imposes a greater restriction on the use of buildings or land or on the height of buildings or requires larger open spaces or imposes any higher standards than are imposed or required by any other statute, law, ordinance, rule or regulation, or by any easement, covenant or agreement, the provisions of this Chapter shall control. Where the requirements of this Chapter differ from the requirements of another statute, law, ordinance, rule or regulation, the more restrictive shall govern.
- C. Exempt uses. The provisions of this article shall not apply in any of the following instances:
- (1) Public parks, playgrounds or similar recreational areas owned or operated by a governmental authority with permission of the Building Inspector.
 - (2) Fire houses, police stations, or other public safety uses owned or operated by the City of Newburgh, Orange County, or by any governmental authority, with permission of the Building Inspector.
 - (3) Other municipal buildings, uses, or utility services operated by the City of Newburgh, with permission of the Building Inspector.

Schedule of Bulk, Area, and Parking Regulations
“R-Low” – Low Density Residential

Use	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Minimum Side Yard Each ¹ (feet)	Minimum Rear Yard (feet)	Maximum Height (Stories)	Maximum Height (feet)	Maximum Lot Coverage (%)	Off-Street Parking Required ²
One-Family detached dwelling; Two Family dwelling	5,000	45	95	15	10	20	2.5	35	30%	2 per dwelling unit
Three-or Four-Family dwelling within a pre-existing building	5,000	45	95	15	10	20	2.5	35	30%	2 per dwelling unit
Cooperative House ³	5,000	45	95	15	10	20	2.5	35	30%	2 per 3 bedrooms; or portion thereof
Family Day Care										
Home Occupation / Home Professional Office										1 per non-resident employee, in addition to dwelling unit requirement
Buildings, uses or facilities of any Governmental Unit	5,000	45	95	15	10	20	2.5	35	50%	As Determined by City Planning Board
House of Worship	7,500	75	100	15	20	20	3	40	50%	1 per 5 seats
Membership Clubs	15,000	100	150	30	30	30	3	40	30%	As Determined by City Planning Board
Private Recreation Facilities	15,000	100	150	30	30	30	3	40	30%	As Determined by City Planning Board
Public Libraries	7,500	75	75	30	30	30	3	40	50%	As Determined by City Planning Board
Public Parks, playground										As Determined by City Planning Board
School of General Instruction	15,000	100	150	30	30	30	3	40	50%	1 per 16 students

1) A detached dwelling may have less than the required side yard on one side if a ten-foot yard is provided by the adjacent use along the same lot line AND where the dwelling provides a ten-foot minimum side yard along the other side lot line.

2) Parking subject to Section xx.

3) Cooperative Houses in existence at the time this Chapter is adopted, must submit a complete application for a Special Permit to the City Planning Board within six months of this Chapter's adoption.

Accessory structures and uses are permitted pursuant to Section XX, Accessory Uses and Structures, as well as the other applicable sections of this Chapter.

Schedule of Area, Bulk, and Parking Regulations
“R-Med” – Medium Density Residential

Use	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Minimum Side Yard Each ^{1,2} (feet)	Minimum Rear Yard (feet)	Maximum Height (Stories)	Maximum Height (feet)	Maximum Lot Coverage (%)	Off-Street Parking Required ⁴
Apartment House ⁵	1,800 sf per dwelling unit	45	80	10	10	20	4	45	50%	0.5 per bedroom
One-Family detached dwelling; Two Family Dwelling	3,500	30	80	10	5	20	2.5	35	40%	2 per dwelling unit
Row or Attached Dwelling (Townhome) up to xxx units	3,500	30	80	10	5	20	3	40	40%	1 per dwelling unit
Three-, or Four-Family Dwelling	3,500	30	80	10	5	20	3	40	40%	1 per dwelling unit
Cooperative House	3,500	30	80	10	5	20	3	40	40%	2 per 3 bedrooms; or portion thereof
Boarding House ³	3,500	30	80	10	5	20	3	40	40%	1 per rented Boarding Unit, in addition to dwelling unit requirement
Residential Care Facility	3,500	30	80	10	5	20	3	40	40%	1 per sleeping room (or as determined by City Planning Board)
Bed & Breakfast									40%	1 space per guest room (in addition to those required for dwelling unit)
Family Day Care										
Home Occupation / Home Professional Office										1 per non-resident employee, in addition to dwelling unit requirement
Buildings, uses or facilities of any Governmental Unit	5,000	45	95	15	10	20	2.5	35	50%	As Determined by City Planning Board
Day Care Center	15,000	100	100	15	10	20	2.5	35	50%	2 spaces per classroom
House of Worship	7,500	75	100	15	20	20	3	40	50%	1 per 5 seats
Membership Clubs	15,000	100	150	30	30	30	3	40	40%	As Determined by City Planning Board
Private Recreation Facilities	15,000	100	150	30	30	30	3	40	40%	As Determined by City Planning Board
Public Libraries	7,500	75	75	30	30	30	3	40	50%	As Determined by City Planning Board
Public Parks, playgrounds										As Determined by City Planning Board
School of General Instruction	15,000	100	150	30	30	30	3	40	50%	1 per 16 students

1) A detached dwelling may have less than the required side yard on one side if a ten-foot yard is provided by the adjacent use along the same lot line AND where the dwelling provides a ten-foot minimum side yard along the other side lot line.

2) Where a dwelling shares a common wall meeting applicable building and construction codes, no side yard is required.

3) Boarding Houses in existence at the time this Chapter is adopted, must submit a complete application for a Special Permit to the City Planning Board within six months of this Chapter's adoption.

4) Parking subject to Section XX

5) New construction of Apartment Houses in the R-Med District is limited to 10 units per lot.

Accessory structures and uses are permitted pursuant to Section XX, Accessory Uses and Structures, as well as the other applicable sections of this Chapter.

Schedule of Area, Bulk, and Parking Regulations
“R-High” – High Density Residential

Use	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Minimum Side Yard Each ^{1,2} (feet)	Minimum Rear Yard (feet)	Maximum Height (Stories)	Maximum Height (feet)	Maximum Lot Coverage (%)	Off-Street Parking Required ⁴
Apartment House	500 per dwelling unit	30	70	0	10	20	6	60	55%	0.33 per bedroom
Two-, Three-, or Four-Family dwelling	2,000	20	70	0	5	20	4	45	55%	None
Row or Attached Dwelling (Townhome) up to xxx units	2,000	20	70	0	5	20	4	45	55%	None
One-Family dwelling	2,000	20	70	0	5	20	3.5	45	55%	None
Boarding House ³	2,000	20	70	0	5	20	2.5	35	55%	0.33 per rented Boarding Unit, in addition to dwelling unit requirement
Cooperative House	2,000	20	70	0	5	20	4	45	55%	None
Residential Care Facility	2,000	20	70	0	5	20	4	45	55%	0.33 per bedroom (or as determined by City Planning Board)
Bed & Breakfast										1 space per guest room (in addition to those required for dwelling unit)
Family Day Care										
Home Occupation / Home Professional Office										0.33 per non-resident employee, in addition to dwelling unit requirement
Ground Floor Retail in Existing Buildings Fronting on William Street South of Broadway										Maintain existing
Assisted Living or Nursing Homes	15,000	100	150	0	10	20	6	60	55%	1 per 4 patient beds, or as determined by City Planning Board
Buildings, uses or facilities of any Governmental Unit	2,000	20	70	0	5	20	2.5	35	70%	As Determined by the City Planning Board
Day Care Center	5,000	30	70	0	5	20	3	35	55%	1.5 per classroom
House of Worship	7,500	75	100	0	20	20	3	40	70%	1 per 5 seats
Membership Clubs	15,000	100	150	30	30	30	3	40	40%	As Determined by the City Planning Board
Private Recreation Facilities	15,000	100	150	30	30	30	3	40	40%	As Determined by the City Planning Board
Public Libraries	7,500	75	75	30	30	30	3	40	50%	As Determined by the City Planning Board
Public Parks, playgrounds, open space										
School of General Instruction	15,000	100	150	0	10	30	3	40	70%	1 per 19 students

1) A detached dwelling may have less than the required side yard on one side if a ten-foot yard is provided by the adjacent use along the same lot line AND where the dwelling provides a ten-foot minimum side yard along the other side lot line.

2) Where a dwelling shares a common wall meeting applicable building and construction codes, no side yard is required.

3) Boarding Houses in existence at the time this Chapter is adopted, must submit a complete application for a Special Permit to the City Planning Board within six months of this Chapter's adoption.

4) Parking subject to Section XX.

Accessory structures and uses are permitted pursuant to Section XX, Accessory Uses and Structures, as well as the other applicable sections of this Chapter.

Schedule of Area, Bulk, and Parking Regulations
“C” – Commercial; “I” – Industrial; “PO” – Planned Office

Use	Minimum Front Yard (feet)	Minimum Side Yard Each ¹ (feet)	Minimum Rear Yard ¹ (feet)	Maximum Height (Stories)	Maximum Height (feet)	Maximum Lot Coverage (%)	Off-Street Parking Required ²
Activity Facility	--	--	--	4	45	60%	1 per 4 people allowed during maximum occupancy
Adult Day Care Facility	--	--	--	4	45	60%	1 per 300 sf
Adult Uses?	--	--	--	4	45	60%	1 per 2 people allowed during maximum occupancy
Amusement Center	--	--	--			60%	1 per 200 sf
Animal Care Facility	--	--	--	4	45	60%	1 per 200 sf
Assembly Hall/Banquet Hall	--	--	--	4	45	60%	1 per 3 people allowed during maximum occupancy
Automobile Gasoline Station	10	5	10	1	15	60%	1 per 3 gas pumps; plus parking for accessory uses (retail) and other principal uses (repair)
Automobile service/Repair	10	5	10	2	25	60%	2 per repair bay
Automobile Wash	10	5	10	1	15	60%	As determined by City Planning Board
Bank	--	--	--	4	45	60%	1 per 300 sf
Bar	--	--	--	4	45	60%	1 per 150 sf
Billiard Parlor	--	--	--	4	45	60%	1.5 per table
Boat Repair	10	5	10	2	25	60%	As Determined by City Planning Board
Bowling Alley	--	--	--	4	45	60%	3 per lane; plus parking for accessory uses if such uses occupy more than 300 sf
Business or Professional Office; Office Park	--	--	--	4	45	60%	1 per 300 sf
Cabaret	--	--	--	4	45	60%	1 per 100 sf
Car Rental	10	5	10	2	25	60%	1 per 300 sf; plus adequate parking for rental vehicles
Cemetery ³	20	20	20	2	25		As determined by City Planning Board
College/University	As Determined by City Planning Board and in accordance with facility master plan.						
Cottage industry	--	--	--	4	45	60%	1 per 500 sf
Day Care Center	--	--	--	4	45	60%	1.5 per classroom
Distribution Facility/Warehouse	10	10	10	3	35	70%	1 per 1,000 square feet
Drive-Thru	--	--	--	4	45	60%	As Determined by City Planning Board
Dry Cleaner / Commercial Laundry	10	10	10	3	35	70%	1 per 500 square feet
Funeral Home	--	--	--	4	45	60%	1 per 100 sf; OR, 1 per 5 seats in chapel, whichever is greater
Hospital	As Determined by City Planning Board and in accordance with facility master plan.						
Hotel/Motel	--	--	--	4	45	60%	1.0 per room; plus parking for accessory uses
House of Worship	0	20	20	4	45	70%	1 per 5 seats
Industrial Uses	10	10	10	3	35	70%	1 per 1,000 square feet

Schedule of Area, Bulk, and Parking Regulations
“C” – Commercial; “I” – Industrial; “PO” – Planned Office

Use	Minimum Front Yard (feet)	Minimum Side Yard Each ¹ (feet)	Minimum Rear Yard ¹ (feet)	Maximum Height (Stories)	Maximum Height (feet)	Maximum Lot Coverage (%)	Off-Street Parking Required ²
Membership Club	--	--	--	4	45	60%	As Determined by City Planning Board
Movie or Professional Theater	--	--	--	4	45	60%	1 per 4 seats
Museum	--	--	--	4	45	60%	1 per 300 sf
Nursing Home	0	10	20	6	60	55%	1 per 4 beds, or as determined by City Planning Board
Park	--	--	--				As Determined by City Planning Board
Parking Area, Community	5	5	5	4	45		
Personal services	--	--	--	4	45	60%	1 per 300 sf
Residential Care Facility	0	5	20	4	45	55%	0.33 per sleeping room (or as determined by City Planning Board)
Restaurant	--	--	--	4	45	60%	1 per 100 sf
Retail Store	--	--	--	4	45	60%	1 per 300 sf
Rooming House	--	--	--	4	45	60%	0.5 per boarding unit
Self Storage	10	10	10	4	45	70%	1 per 1,000 square feet
Shopping Center	--	--	--	4	45	60%	1 per 300 sf
Tattoo Parlor	--	--	--	4	45	60%	1 per 300 sf
Taxi Service	10	5	10	2	25	60%	1 per 300 sf; plus adequate parking for all fleet vehicles
Technical School	--	--	--	4	45	60%	As Determined by City Planning Board
Wholesale	10	10	10	4	45	70%	1 per 1,000 square feet

- 1) Must also comply with Section xx (screening next to residential districts)
- 2) Parking subject to Section XX
- 3) Cemetery must have a minimum lot size of 40,000 square feet.

Accessory structures and uses are permitted pursuant to Section XX, Accessory Uses and Structures, as well as the other applicable sections of this Chapter.

D. Additional Dimensional Requirements

- (1) Corner Lots. A yard equal to the required front yard shall be provided with respect to any lot line that abuts a street. The other yards shall be deemed to be side yards.
- (2) Through Lots. The Building Inspector shall designate a front and rear yard in keeping with the predominant development pattern of the area and/or to promote consistency with the goals of the Comprehensive Plan.
- (3) With respect to one-, two-, three-, and four-family houses, no more than one principal building and its accessory structures and uses may be located on any one lot.

E. Subdivision of a lot. Where a lot is subdivided from an existing lot already occupied by a building or structure, both the existing lot and the newly subdivided lot shall conform with the requirements of this Chapter with respect to the existing building and all yards and other required spaces in connection therewith.

F. Required street frontage: No building permit shall be issued nor shall any site plan be approved for the construction of any new building or structure unless the lot upon which the use is to be established or such structure is to be built has frontage of at least 20 feet on a dedicated public street or on a street or highway, which has been suitably improved to City road standards or a bond posted therefor and unless the actual access to such use or such structure will be over such frontage.

G. Multiple residential buildings on one lot: A lot may contain more than one principal apartment house provided that the lot conforms to the applicable density requirements of the underlying zoning district. Such lot may not later be subdivided unless the subdivided lots conform to the dimensional regulations in effect when the subdivision is proposed.

H. Projections into required yards.

- (1) Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, belt courses, pilasters, leaders, chimneys, cornices, eaves and ornamental features, provided that no such projection may extend more than four feet into any required yard.
- (2) Bays including their cornices and eaves, may extend not more than four feet into any required yard provided that the sum of such projections on any wall shall not exceed 1/3 the length of such wall.
- (3) An open fire balcony or fire escape may extend not more than four feet into any required yard.
- (4) Steps and stairs may extent not more than 4 feet into the required side or rear setback area.
- (5) Awnings or movable canopies may extent not more than 4 feet into the required side or rear setback area.

I. Height Exceptions. The height limitations in the Dimensional Table shall not apply to any flagpole, radio or television receiving antenna, spire or cupola, chimney, elevator or stair bulkhead, parapet or railing, water tank, or any similar non-habitable structure, provided that such structure is firmly attached to the roof or side of a building and covers no more than 10% of the roof area.

J. Setbacks for accessory structures and uses.

- (1) Any accessory structure attached to a principal building and any detached garage, tennis court, or swimming pool shall comply with the minimum setback requirements of this Chapter applicable to the principal building. Other detached accessory structures or uses may encroach into required setback areas provided that they:
 - (a) Are not used for human habitation;

- (b) Have a footprint no larger than 200 square feet;
 - (c) Do not exceed 16 feet in height;
 - (d) Do not occupy more than 10% of a rear setback area;
 - (e) Are set back at least 10 feet from side lot lines;
 - (f) Are not located closer to the street than the front yard setback required for a principal building, except for fences, gates, mailboxes, signs, with less than 100 square feet of footprint, as well as ornamental structures such as entry pillars and statues; and
 - (g) Are not used for housing animals.
- (2) For corner lots, the setback from all streets shall be the same for accessory structures as for principal buildings.
- (3) For watercourse setbacks, see § _____ WPO DISTRICT REGULATIONS.
- K. Setbacks involving irregular buildings and lot lines. Where structures or lot lines are irregular or unusual in configuration, all points on the structure shall satisfy the minimum setback requirements from that point on the lot line which is the shortest distance from the structure.
- L. Fences (including hedges). The setback requirements of this Chapter shall not apply to any fences less than four feet high in any front, side or rear yard, except where corner clearances are required for traffic safety.

§ 300-__ . Conservation Development District

- A. Purpose and intent. The purpose of the Conservation Development District (CDD) is to encourage conservation of environmental resources in exchange for flexibility in bulk and area requirements and the potential for granting more intensive development if conservation goals stated herein are achieved. The primary goals of the CDD are to:
- (1) Preserve open space
 - (2) Preserve or enhance environmentally sensitive features
 - (3) Protect steep slopes by preserving vegetative cover to minimize the impacts of erosion and sedimentation
 - (4) Provide opportunities for on-site stormwater management and groundwater recharge
 - (5) Protect and enhance scenic views
 - (6) Encourage flexibility in the design of residential land uses that may not be permitted under traditional zoning regulations
 - (7) Promote a range of housing types
 - (8) Create on site recreation opportunities
 - (9) Promote integration with neighboring land uses through trails and waterfront access points.
- B. Allowable uses – Any uses permitted by right in the R-Low, R-Med, or R-High Districts
- C. Definitions. For the purposes of this section, ‘*environmental resource areas*’ mean areas of slopes over 20%, delineated wetlands, streams, lakes, 100- and 500-yr floodplains and floodways, areas within the WPO, ridgelines, scenic viewsheds, ecologically sensitive areas and other environmentally sensitive features determined by the City Planning Board.
- D. Standards
- (1) Multiple parcels allowed. Contiguous parcels under common ownership may be considered as one ‘site’ under this section.

- (2) Applications for Site Plan approval must be in keeping with, and further the goals stated in, the purpose and intent of this subsection.
 - (3) Dimensional Standards. The density and dimensional standards in ____ and all other density and dimensional regulations in this chapter other than those contained in this section and the parking and loading requirements in Section §_____, shall not apply and are superseded by this subsection. Dimensional and density standards shall be approved by the City Planning Board based on physical characteristics of the site, the character of the proposed development, relevant performance standards in this chapter, and the requirements of the SEQRA process.
 - (a) The number of dwelling units allowed in a CDD shall be equal to the gross area of the CDD site less the ‘environmental resource areas’; that number divided by 3,000 square feet.
 - (b) Applicants in the CDD may be eligible for a density bonus of up to 20%, at the discretion of the City Planning Board, based on the plan’s furtherance of the purposes of this article.
 - (c) Buildings shall have a maximum length of 200 feet.
 - (d) Buildings shall have a maximum height of 4 stories or 50 feet. However, the City Planning Board may adjust the maximum allowable height in order to maintain compatibility with surrounding land uses or to protect important views or to protect, preserve, and enhance the environmental features of the site.
 - (e) Maximum impervious coverage shall be 15% of the total gross land area, including preserved open space areas.
 - (4) A minimum of 50% of the net land area of the parcel shall be preserved by a permanent conservation easement or deed restriction as open space. Open space land preserved under this subsection may include ponds and streams, wetlands and wetland buffers, steep slopes, ridgelines, scenic viewshed areas, and recreational areas such as trails. It shall not include land that is covered by impervious surface other than trails or paths.
 - (5) Each CDD site must include passive recreation on the site, such as walking trails.
 - (6) Development area treated as a unit. Regardless of the form of ownership of the property or its division into separate parcels, the open space, and other dimensional requirements in this section shall apply to the entire area zoned CDD and not to any individual parcels or lots, which are portions thereof.
 - (7) Off-street parking must be provided on the CDD site in accordance with requirements stated in Section _____. Parking areas must be screened from environmental resource areas and adjacent residentially zoned parcels, except where doing so would not further the goals of this section. (i.e., parking areas of two adjacent CDD sites may abut each other without screening.)
 - (8) Adequate internal circulation must be provided, including adequate access for emergency vehicles.
- E. Application Procedure. For any application within the Conservation Development District, the applicant shall prepare a conservation analysis of the land (as described in Section §_____) to be submitted with the Site Plan Application. The Site Plan Application in a CDD shall also contain such other information as the City Planning Board deems necessary to determine whether or not the Plan complies with the requirements of this subsection. The Site Plan application package shall also include a management plan for the future of the proposed development as a unified entity.

- F. The City Planning Board shall refer applications for site plan approval under this section to the Conservation Advisory Council (CAC). The CAC has 30 days from the referral to provide its comment on the application.

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ARTICLE __ – FORM-BASED CODE: Regulations for the BC, DN, WG, and PWD Districts.

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ARTICLE __ – HISTORIC OVERLAY DISTRICT

§ 300-__ . Historic and Architectural Design Overlay Districts: Purpose

- A. New York General Municipal Law establishes that municipalities may “provide by regulations, special conditions, and restrictions for the protections, enhancement, perpetuation and use of places, districts, sites, buildings, structures...having a special character or historic, cultural, or aesthetic interest or value;” and “...such regulations, special conditions and restrictions may include appropriate and reasonable control of the use or appearance” of designated properties.
- B. Based on the above authority, it is hereby a matter of public policy that the protection, enhancement and perpetuation of historic, architectural and cultural structures, buildings and properties is necessary to promote the economic, cultural, education, and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as the City of Newburgh has many significant historic, architectural and cultural resources which constitute its heritage, this section is intended to:
 - (1) Designate, protect and enhance the landmarks, historic districts and architectural districts which represent distinctive elements of the City of Newburgh's historic, architectural, and cultural heritage;
 - (2) Foster civic pride in the accomplishments of the past;
 - (3) Protect and enhance the City of Newburgh's attractiveness to visitors, thereby supporting and stimulating the local and regional economy; and
 - (4) Ensure the harmonious, orderly, and efficient growth and development of the City of Newburgh.
- C. The Architectural Review Commission, constituted and described below, operates as the City’s official heritage preservation review board under the Certified Local Government program of the National Park Service. This program is administered in New York State by the NY State Historic Preservation Office (SHPO), within the NY Office of Parks, Recreation and Historic Preservation. The City of Newburgh benefits from the pass-through funds available to Certified Local Governments.
- D. East End Historic District. The East End Historic District is historically and architecturally significant as an intact concentration of historic buildings and sites which chronicle the development of the City of Newburgh from its mid-eighteenth century settlement period until the conclusion of a 150-year period of population growth and economic expansion in the mid-1930s...This 150-year continuum of growth and development is represented at each important stage by significant buildings and neighborhoods within the historic district. Included are architecturally significant examples of vernacular building practices unique to Newburgh, as well as numerous examples of progressive and sophisticated architectural design and landscape architecture, many by nationally recognized leaders in these fields.

§ 300-__ . Architectural Review Commission:

- A. Creation; membership: There is hereby continued a Commission to be known as the "City of Newburgh Architectural Review Commission." (ARC) The ARC shall consist of seven members to be appointed by the City Manager as follows:
 - (1) At least one shall be an historian; such member may be a nonresident of the City;
 - (2) At least three shall be residents of a historic district or architectural design district established within the City or residents of a designated individual landmark building;
 - (3) At least one shall be an architect; such member may be a nonresident of the City;

- (4) All should have demonstrated significant interest in and commitment to the field of historic preservation or architecture evidenced by involvement in a local historic preservation group, employment or volunteer activities in the field of historic preservation or architecture, and serious interest in the field; and
 - (5) Except as provided above, all members shall be residents and shall have an interest in historic preservation and architectural development within the City of Newburgh.
- B. Terms of office: ARC members shall serve a term of five years from their most recent appointment.
 - C. Two alternate members of the ARC shall be appointed by the City Manager for a term of two years, commencing on the date of appointment. These members shall serve when members are absent or unable to participate on an application before the ARC. The Chairman of the ARC may designate an alternate substitute for a member when such member is unable to participate on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of every ARC meeting at which the substitution is made. All provisions of state law and local law, codes, rules and regulations relating to ARC member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of any local law or local ordinance relating to training, continuing education, compensation and attendance, performance of duties, qualifications and others, shall also apply to alternate members.
 - D. Chairman: The Chairman shall be appointed by the City Manager. If he shall not appoint a Chairman, then the Chairman shall be elected by and from among the members of the ARC.
 - E. Vacancies occurring other than by expiration of term shall be filled for the remainder of the unexpired term in the same manner as the original appointments.
 - F. Meetings: The ARC shall meet at least monthly, but meetings may be held at any time on the written request of any of the ARC members or on the call of the Chairman or the City Manager.
 - G. Quorum: A quorum for the transaction of business shall consist of four of the ARC's members, but not less than a majority of the full authorized membership may grant or deny a certificate of appropriateness or recommend the designation of a landmark, historic district or architectural design district

§ 300-__ . Powers and Duties of ARC:

- A. The ARC shall exercise aesthetic judgment so as to maintain the character of historic and architectural design districts, or a landmark, and to prevent construction, reconstruction, alteration or demolition which would be out of harmony with the architectural aesthetics, style, materials, colors, line and details of same.
- B. The ARC shall act as an advisory board to review any application presented to it from the Zoning Board of Appeals or the City Planning Board for variances or special use permits, respectively. If such a referral is made, the ARC shall return its comments to the referring board within 30 days of receipt.
- C. In addition to the aforementioned powers, the powers of the ARC shall include:
 - (1) Employment of staff and professional consultants to the extent funds therefor are budgeted by the Council, as necessary to carry out the duties of the ARC.
 - (2) Promulgation of rules and regulations, which shall be subject to the approval of the City Manager, as necessary for the conduct of its business.
 - (3) Adoption of criteria for the identification of significant local historic, architectural, and cultural landmarks and for the delineation of historic districts.

- (4) Conduct surveys of significant historic, architectural, and cultural landmarks and historic districts within the City.
- (5) Recommend to the City Council the designation of a local building, structure or property or a collection of buildings, structures or properties as a local landmark, historic district or architectural design district, hereafter referred to as "designated properties."
- (6) Recommend to the State Historic Preservation Office the listing of any local landmark for inclusion on the State Register of Historic Places.
- (7) Acceptance on behalf of the City Council of the donation of facade easements and development rights, and the making of recommendations to the City Council concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this section.
- (8) Increasing public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.
- (9) Making recommendations to City Council concerning the utilization of state, federal or private funds to promote the preservation of designated properties within the City.
- (10) Recommending acquisition of designated property by the City Council where its preservation is essential to the purposes of this article and where private preservation is not feasible.
- (11) Provide advice and guidance to owners, contract vendees, and residents of historic districts on financing sources that are available specifically to properties within the historic districts, such as the federal Historic Rehabilitation tax Credit and Property Tax Abatements.
- (12) Approval or disapproval of applications for certificates of appropriateness pursuant to this article as to designated properties pursuant to this article and as to all changes in exterior features or demolition of designated properties duly established by ordinance of the City, with the exceptions of those changes stated in Section §_____ of this Chapter.

§ 300-___. Designation of landmarks, historic districts or architectural design districts:

A. Local Landmark designation:

- (1) The ARC may recommend to the City Council the local designation of a structure, building, or property as a landmark if it:
 - (a) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the City of Newburgh, Hudson River Valley, New York State or the United States;
 - (b) Is identified with historic personages;
 - (c) Embodies the distinguishing characteristics of an architectural style;
 - (d) Is the work of a renowned architect or designer whose work has significantly influenced an age; or
 - (e) Because of a unique location or singular physical attribute, represents an established and familiar visual feature of the neighborhood.
- (2) Notice of a proposed designation shall be sent by certified mail to the owner of the property proposed for designation at the address on file for said property owner with the City Assessor, describing the property proposed and announcing a public hearing by the City Council to consider the designation. The proposal shall also be published at least once in all official newspapers of the City at least five days prior to the date of the public hearing. Once the City Council has issued notice of a proposed designation, no building permit shall be issued by the Building Inspector until the City Council has made its decision.

- (3) The City Council shall hold a public hearing prior to designation of any local landmark. The ARC, owners, and interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance of the proposed landmark. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.
- (4) The City Council shall forward notice of each property designated as a local landmark to the office of the Orange County Clerk for recordation.
- (5) The location of each local landmark designated henceforth shall be specified in detail and shall be filed, in writing, in the Building Inspector's office for public inspection.

B. Historic district or architectural design district:

- (1) The ARC may recommend to the City Council the designation of a group of properties as a local historic district or architectural design district if the proposed district:
 - (a) Contains properties which meet one or more of the criteria for designation of a landmark; and
 - (b) By reason of possessing such qualities, constitutes a distinct section of the City.
- (2) Designation of an historic district or architectural design district represents an amendment to this chapter and Zoning Map and shall be done in accordance with the procedures contained in § 300- of this chapter and in accordance with Section 83 of the General City Law of the State of New York.
- (3) The location of each local historic district or architectural design district designated henceforth shall be specified in detail and shall be filed, in writing, in the Building Inspector's office for public inspection.
- (4) The location of each historic district or architectural district shall be shown as an overlay district on the City of Newburgh Zoning Map.
- (5) The City Council shall forward notice of each designated historic district or architectural design district to the office of the Orange County Clerk for recordation.

§ 300-___. Certificate of appropriateness:

A. Certificate required:

- (1) No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark, nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affects the appearance and cohesiveness of a district and its designated properties, without first obtaining a certificate of appropriateness (COA).
- (2) Exemption. The following activities do not require a certificate of appropriateness under this Article:
 - (a) Repair, replacement and installation of electrical, plumbing, heating and ventilation systems, provided that such work does not affect the exterior of the structure.
 - (b) Caulking, weather stripping, glazing and repainting of windows.
 - (c) Repair of porches, cornices, exterior siding, doors, balustrades, stairs or other trim when the repair is done in-kind to match existing material and form.
 - (d) Repair of storm windows (exterior, interior or wood), provided they match the shape and size of historic windows and that the meeting rail coincides with that of the historic window; color should match window frame trim.

- (e) Installation of new window jambs or jamb liners.
 - (f) Repair or replacement of awnings when work is done in-kind to match existing materials and form.
 - (g) Roof repair of historic roofing with material that matches the existing material in form or better.
 - (h) Repair of gutters and downspouts that mat matches the existing material in form or better.
 - (i) Installation of insulation where exterior siding or trim is not altered or damaged and is not inset by the new from new insulation or stays proud of the building plane as originally intended.
 - (j) Repair of existing roads, driveways, sidewalks and curbs, provided that work is done so that there are no changes in dimension or configuration of those features. Concrete used for sidewalks and curbs and driveway aprons shall be dyed in the mix prior to placing to emulate bluestone in the historic district.
 - (k) Exterior lead paint abatement that includes scraping and repainting of exterior work and masonry surfaces.
 - (l) Repair of fencing when work is done in-kind to match existing material and form.
 - (m) Repair or replacement of water, gas, storm or sewer lines.
 - (n) Emergency repairs necessitated by a casualty to the property (fire, storm, flood, etc.).
- B. In passing upon an application for a certificate of appropriateness, the ARC shall not consider changes to interior spaces, unless they are open to the public, or to architectural features that are not visible from a public place, public street or alley.
- C. Decision-making: The ARC's decision shall be based upon the following principles:
- (1) Designated properties which contribute to the character of an historic district or architectural design district shall be retained, with their historic or architectural features altered as little as possible;
 - (2) Any alteration of a designated property shall be compatible with its historic character, as well as with the surrounding district; and
 - (3) New construction shall be compatible with the district in which it is located and with the design guidelines established for such district.
 - (4) Items not contemplated at the time of this or other reference publications shall be at the discretion of the ARC.
- D. Principles of compatibility: The ARC shall consider the following factors:
- (1) The general design, character, and appropriateness to the property of the proposed alteration or new construction.
 - (2) The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.
 - (3) Texture, materials, and color and their relation to similar features of other properties in the neighborhood.
 - (4) Visual and aesthetic compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties in streets, including setback.
 - (5) The importance of historic, architectural or other features to the significance of the property.

- (6) The proposed action's consistency with design guidelines established for an historic or architectural design district.
- E. Special Demolition Considerations. In considering applications for demolition, the ARC shall consider:
- (1) Whether the building or structure is dangerous to health, safety or life
 - (2) The extent, significance, and expense of repairs needed to maintain the structure in good repair
 - (3) The historic value of the structure or property
 - (4) The contribution of the structure or property to community character, or an existing, locally-designated historic or architectural district
 - (5) The existence and extent of hardship criteria, including whether:
 - (a) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible, without being allowed the proposed demolition.
 - (b) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return, without being allowed the proposed demolition.
 - (c) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
 - (6) Any other information considered necessary by the ARC
- F. Certificate of appropriateness procedure: Prior to the commencement of any work requiring a certificate of appropriateness the owner, or contract vendee with written authorization of the owner, shall file an application for such a certificate with the Building Inspector. The Building Inspector will forward all applications received by xxx of the month to the ARC for placement on the agenda of the next available meeting. The application shall contain the following, unless the ARC specifically waives the requirement for its submission:
- (1) Name, address, and telephone number of the applicant.
 - (2) Location and photographs of the property and any structures located thereon.
 - (3) Name of the NYS Registered Design Professional (ie., Registered Architect) hired by the Applicant. Unless the residential home owner creates the drawings themselves, all drawings submitted by a NYS RDP must have the seal and signature of the licensee
 - (4) Elevation drawings of proposed changes, if available.
 - (5) Perspective drawings, including relationship to adjacent properties, if available.
 - (6) Samples of color or materials to be used.
 - (7) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination and a plan showing the sign's location on the property.
 - (8) Any other information which the ARC may deem necessary in order to visualize the proposed work, including a representation of all phases of a proposed project.
 - (9) Copies of any site plans or subdivision plans as may be required by ordinance of the City.
 - (10) Copies of all SEQRA documents and proceedings.

- G. Consent Agenda. In order to speed the workflow of the ARC and reduce the burden on Applicants, the ARC is empowered to consider and approve multiple applications with a single motion.
- (1) Upon forwarding COA applications to the ARC, the Building Inspector shall note which applications may be appropriate to be placed on the consent agenda. The decision shall be based on:
 - (a) The nature and extent of the alteration or demolition being proposed
 - (b) The degree to which the application is in conformance with the appropriate Design Guidelines as specified in Section xx
 - (c) Written “Consent Agenda Guidance”, approved by the ARC, regarding paint colors, materials, and items that are generally suitable for specific purposes within the district.
 - (2) Items placed on the Consent Agenda shall be listed on the ARC’s meeting agenda and announced at the meeting. If, after a vote of the ARC members present, one member of the ARC has an objection to an item on the consent agenda, that item shall be removed from the consent agenda and placed on the regular agenda for full consideration by the ARC.
 - (3) The Chair of the ARC shall entertain a motion to approve items placed on the consent agenda upon hearing no objection to the applications remaining on the list.
 - (4) Applicants with items pending on the Consent Agenda do not need to attend the ARC meeting at which their application is being considered.
- H. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the ARC. The certificate of appropriateness required by this section shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the City of Newburgh.
- I. The ARC shall entertain applications for a COA from an owner of the property, the City of Newburgh, and contract vendees with the written authorization of the owner.
- J. In such cases when the current property owner does not plan on carrying out the work applied for, but rather wants to transfer the COA approval to a subsequent owner, the ARC shall condition any approval upon the completion of the approved scope of work within a reasonable time-frame. Renewals of such conditions may be granted at the sole discretion of the ARC upon application at least 30 days prior to the expiration of the time limit.
- K. The ARC shall approve, deny, or approve the application for a certificate with modifications within 60 days from the closing of the public hearing, if any, and otherwise within 60 days from the receipt of the completed application. The ARC shall hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Notice of such public hearing shall be published in the official newspaper of the City of Newburgh at least five days prior to said hearing.
- (1) A public hearing shall not be required for an application limited to approval of paint color or repair or maintenance of a building or structure or property that does not involve the alteration or removal of any exterior feature.
 - (2) A public hearing shall not be required for items on the consent agenda.
- L. All decisions of the ARC shall be in writing. A copy shall be sent to the applicant by regular mail and a copy filed with the Building Inspector’s office for public inspection. The ARC’s decision shall state the reasons for denying or modifying any application.

§ 300-__ . Appeal of COA decision, Hardship:

- A. An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible, without undertaking the alterations applied for.
- B. Hardship application procedure: After receiving written notification from the ARC of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the ARC makes a finding that a hardship exists.
- C. Public hearing: The ARC shall hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views. Notices of such public hearing shall be published in the official newspaper of the City at least five days prior to said hearing.
- D. Alternatives analysis: The applicant shall consult in good faith with the ARC, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- E. Decisions and filing: All decisions of the ARC shall be in writing. A copy shall be sent to the applicant by regular mail and a copy filed with the Building Inspector's office for public inspection. The ARC's decision shall state the reasons for granting or denying the hardship application.

§ 300-__ . Administration and enforcement:

- A. Enforcement: All work performed pursuant to a certificate of appropriateness issued under this article shall conform to any requirements included therein. It shall be the duty of the Building Inspector to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with a certificate of appropriateness, the Building Inspector shall issue a stop-work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.
- B. Maintenance required: Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in the design, material, color, or outward appearance. No owner or person with an interest in a designated property shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural or historic feature which would, in the judgment of the ARC, produce a detrimental effect upon the character of a historic or architectural district as a whole or the life and character of a landmark. Examples of such deterioration include:
 - (1) Deterioration of exterior walls or other vertical supports;
 - (2) Deterioration of roofs and other horizontal members;
 - (3) Deterioration of exterior chimneys;
 - (4) Deterioration or crumbling of exterior stucco or mortar;
 - (5) Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors; and
 - (6) Deterioration of any features so as to create a hazardous condition which could lead to a claim that demolition is necessary for the public safety.

C. Violations:

- (1) Failure to comply with any of the provisions of this article shall be deemed a violation, and upon conviction the violator shall be liable to a fine of not less than \$500 or 15 days in jail or both for each day the violation continues.
- (2) Any person who demolishes, alters, constructs or permits a designated property to fall into a serious state of disrepair in violation of this article shall be required to restore the property and its site to its appearance prior to the violation. An action to enforce this subsection may be brought by the City in any court of competent jurisdiction. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

- D. Appeals: Any person aggrieved by a decision of the ARC relating to hardship or a certificate of appropriateness may, within 30 days of the decision, file a notice of petition pursuant to Article 78 of the Civil Practice Law and Rules to the Supreme Court.

§ 300-__ . Designation of districts and standards:

- A. Design guidelines: The City Council, by resolution, may adopt design guidelines for any historic or architectural design district. Said design guidelines shall be drafted with the input and participation of the ARC and owners of property located within the district. A public hearing shall be held prior to the adoption of design guidelines, and notice of said public hearing shall be in accordance with Section 300-__ A (2).
- B. The ARC, in its deliberations, shall be guided by design guidelines that have duly been adopted by the City Council in any review authorized herein.
- C. Historic District: East End: The ARC, in its deliberations, shall be guided by the East End Historic District Guidelines, duly adopted by the City Council by Ordinance No. 2-2008, dated February 25, 2008.
- D. Architectural Design District: Colonial Terraces: The ARC, in its deliberations, shall be guided by the "Colonial Terraces Design Guidelines" duly adopted by the City Council by Ordinance No. 3-2005, dated June 20, 2005.

ARTICLE __ – OTHER OVERLAY DISTRICTS

§ 300-__ . Waterbody Protection Overlay (WPO) District

- A. Purpose and intent. The Waterbody Protection Overlay District (WPO) is established to provide special protection of the City's waterbodies, creek and stream corridors. Creating and preserving vegetated stream, and creek (water body) buffers have been shown to be protective of water quality, to prevent erosion, and to preserve and enhance animal habitat and plants to sustain the ecological services provided by aquatic resources such as ponds, lakes, and streams.
- B. The purpose of this section is to regulate land uses within or adjacent to a stream corridor or waterbody to protect water quality, biodiversity, scenic resources and reduce the risk of damage from flooding. It is important to note that the entire Quassaick Creek Watershed, which originates in Ulster County, and drains the northeaster portion of Orange County, flows through the City of Newburgh. It is therefore imperative to the protection of public health, safety, and welfare to appropriately manage development adjacent to this critical resource. The primary goals of the WPO are to:
- (1) Promote the ecological health, biodiversity and natural habitats of the creeks, stream corridors and waterbodies within the City of Newburgh by
 - (a) Maintaining and restoring riparian buffer vegetation
 - (b) Minimizing stream channel constraints
 - (c) Other best management practices
 - (2) Provide for responsible development of parcels adjacent to the City's creeks, streams and waterbodies
 - (3) Protect public health and welfare by preserving water quality, filtering pollution and sediments and reducing the risk of damage from flooding
 - (4) Enhance the aesthetic character of the City's creeks, streams and waterbodies, which are a source of civic pride
 - (5) Promote public access to the shore of the creeks, streams and waterbodies
 - (6) Re-orient development to feature the streams, creeks and waterbodies and allow the public to use the shore and the water resources for passive and active recreation
 - (7) Promote public awareness of the mapped waterbodies' vital ecological and historical value to the City of Newburgh
- C. Boundaries: The Water Protection Overlay District includes all land laying within 100 feet of the top of the bank on each side of the following waterbodies. Where there is no clearly defined bank, the district boundary shall be measured from the mean high-water line of the waterbody.
- (1) Quassaic Creek
 - (2) Gidneytown Creek
 - (3) Harrison Pond
 - (4) *Unnamed* Pond east of Harrison Pond and west of Gidneytown Creek
 - (5) Crystal Lake
 - (6) Muchattoes Lake
 - (7) *Unnamed* Ponds (2 Ponds) southwest of Crystal Lake

- (8) *Unnamed* Stream that flows into and out of Crystal Lake and is tributary to the Quassaic Creek. (Note: The portion of this unnamed stream northeast of Crystal Lake is not mapped in the National Hydrography Dataset and is not accurately mapped by the NYS DEC.)
- (9) That portion of the Hudson River that is not within the PWD zoning District
- D. Regulatory Effect and Land Uses: The requirements of the Waterbody Overlay District shall apply to parcels that have any part within the WPO District, as shown on the zoning map, not just the portion of parcels within the WPO. The requirements of this section will be in addition to the requirements of the underlying zoning district.
- E. Setbacks. Within the WPO District, no principal structure shall be located within 100 feet of a creek, stream or waterbody, and no accessory structure 200 square feet or greater shall be located within 50 feet of a watercourse. These setbacks shall not apply to docks, piers, bridges, and other structures, which by their nature must be located on, adjacent to, or over the watercourse. For purposes of determining setbacks, measurements shall be horizontal distances measured from the top of the bank or mean high-water line, as appropriate. For lots in existence prior to DATE OF PASSAGE OF THIS ZONING, and for any project for which an environmental impact statement has been prepared, the City Planning Board may modify these setback requirements, provided that the City Planning Board finds that the proposed construction will comply with Subsection ____ below.
- F. Site Plan Approval Requirement: Within the WPO District, no person shall clear, fill, dredge, excavate, deposit materials, or undertake any construction activities within the WPO, without Site Plan approval as detailed in this Section.
- (1) All parcels having any part within the WPO shall be subject to Site Plan review and approval and may not be exempted from that requirement based on § 300- (C).
- (2) The City Planning Board may only grant Site Plan approval for any of the activities noted in Section ____ above, if it finds the proposed activity is compliant with the following appropriate conditions:
- (a) The proposed activity will not result in erosion or pollution from surface or subsurface runoff. In making such determination, the City Planning Board shall consider slopes, drainage patterns, water entry points, soil erosion, depth to bedrock and high-water table, and other relevant factors.
- (b) The proposed activity includes appropriate measures to minimize stormwater quantity and velocity, increase stormwater quality, promote inflow and infiltration, protect stream and lake/pond banks from erosion, improve the water quality of the City's waterways, and increase public awareness of these critical resources. (This section applies to the entire parcel, not just the portion of the parcel within the WPO.) These measures may include any of the following, or other, measures.
- [1] Vegetated streambank buffers
 - [2] Rain Gardens and bio-retention swales
 - [3] Storage and reuse of roof, sidewalk, and parking lot runoff
 - [4] Pervious paving materials
 - [5] Appropriately placed, designed, and managed constructed wetlands
 - [6] Public access to resource
 - [7] Public education materials (signs, kiosks, viewing areas, etc)
 - [8] Other measures identified by the City, County, State or regional planning entities as appropriate to further the goals specified above.

- (c) Any areas of natural resource preservation on the Site shall be linked, to the extent practical, with preservation areas on adjacent parcels.
 - (d) The proposed activity would provide passive walking trails and/or public pedestrian access to the creek, stream or waterbody and will comply with all other applicable provisions of this Chapter
 - (e) Any new encroachment into the WPO has been demonstrated to be, in the City Planning Board's opinion, the only practicable alternative, taking into consideration other alternatives requiring no, or less, impacts within the WPO.
 - (f) Any encroachment into the WPO is required so as not to deprive the owner of all reasonable returns on investment relating to the development of their parcel, if said parcel is in an undeveloped condition and in single ownership.
 - (g) The planting and keeping of gardens in areas already cleared of natural vegetation and currently existing in a maintained condition (i.e., lawn).
 - (h) The proposed activity will not result in degradation of scenic character and will be compatible with its surroundings.
- (3) If a Special Permit, Variance or Subdivision Approval is required in connection with a project located in the WPO and subject to the provisions herein, the requirements of this section shall be considered in such a proceeding, and no separate Site Plan approval shall be required.
- (4) The City Planning Board shall refer the WPO application to the Conservation Advisory Council. The CAC has 30 days from the date of referral to provide its comment on the application.

G. Erosion and Stormwater Management.

- (1) For any special permit, site plan, variance or subdivision application in which the area to be disturbed lies partially or wholly within the WPO, an erosion and sediment control plan shall be required pursuant to the Stormwater Management regulations in Chapter 248 of the Code of the City of Newburgh pursuant to § 248-60 (A).

H. For lots in existence prior to the effective date of this Chapter that are currently developed with a building, parking lot, or any other impervious surface within the WPO, and are applying for amendments to their site plan, subdivision, special use permit or variance, at the time of application

- (1) No increase in the amount of the WPO covered by impervious surface is allowed.
- (2) Site plans must make maximum use of Low Impact Development techniques and other water quality/quantity improving development tools described in Section _____.

§ 300-__ Neighborhood Commercial Overlay District

A. The purpose and intent of the Neighborhood Commercial Overlay District (NC) is to:

- (1) Recognize the existing development pattern within the area of the City along the westernmost portion of Broadway.
- (2) To allow multiple uses within buildings and within lots in order to promote market-driven uses and redevelopment within targeted areas of the City, as identified in the Future Land Use Plan.

B. Within the NC Overlay District, the following uses are added to the list of uses permitted as of right, but requiring site plan approval.

- (1) Retail Store
- (2) Restaurant

- (3) Personal Services
 - (4) Professional Office
 - (5) Animal Care facility
 - (6) Child Care Center
 - (7) Adult Day Care Facility
 - (8) Technical School
- C. Off-Street Parking. Off-street parking required for the uses listed in paragraph (B) shall be the same as those listed for the “C-Commercial” district.
- D. Bulk and area requirements for the uses listed in paragraph (B) above shall be the same as the underlying zoning.

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ARTICLE __ – SUPPLEMENTARY REGULATIONS

§ 300-__ . Environmental Performance Standards

- A. Compliance with performance standards. No use shall hereafter be established, altered, moved or expanded unless it complies with the performance standards set forth in this section. Continued conformance with such standards, once applicable, shall be a requirement for the continuance of any certificate of occupancy.
- B. Purpose of performance standards. Consistent with the general purposes of this Chapter, performance standards shall set specific controls on potentially objectionable external aspects of all uses in order to:
- (1) Reduce to a reasonable minimum the dissemination of smoke, gas, dust, odor or other atmospheric pollutants outside the building in which the use is conducted.
 - (2) Control noise and light perceptible beyond the boundaries of the site of the use.
 - (3) Limit the discharge of treated wastes and prohibit the discharge of untreated wastes into any watercourse.
 - (4) Limit the dissemination of vibration, heat or electromagnetic interference beyond the immediate site on which the use is located.
 - (5) Limit physical hazard by reason of fire, explosion, radiation or any similar cause.
 - (6) Regulate and control the generation and flow of vehicular traffic in order to prevent hazardous conditions, traffic congestion and excessive noise in the streets.
- C. Noise. No noises shall be emitted in violation of Chapter 212 of the Code of the City of Newburgh. In addition, the following specific standards apply to noise:
- (1) Sound levels shall be determined at the lot line of the lot from which the noise is emitted. Sound measurements shall be accomplished through a sound-level meter having an A-weighted filter and constructed in accordance with specifications of the American National Standards Institute or other generally accepted standard for the measurement of sound.
 - (2) No person, firm or corporation shall allow the emission of sound which, as measured at the lot lines, has a sound level in excess of:
 - (a) Sixty decibels on the A-weighted scale between the hours of 7:00 a.m. and 8:00 p.m.; and
 - (b) Fifty decibels on the A-weighted scale between the hours of 8:00 p.m. and 7:00 a.m.
 - (3) Sounds emitted at levels lower than those prohibited by Subsection 2 above shall not be permitted if, because of the type or frequency of the noise emitted, such sounds are offensive, disruptive or in continual disharmony with the character of an adjoining or nearby residential neighborhood.
 - (4) Exemptions. The following shall be exempt from the noise level regulations:
 - (a) Noises not directly under the control of the property user.
 - (b) Noises emanating from construction and maintenance activities between 8:00 a.m. and sunset, Monday through Friday.
 - (c) The noises of safety signals, warning devices, emergency pressure-relief valves or other emergency warning signals
 - (d) Bells or chimes from a church or other place of worship.
- D. Exterior illumination and glare. No use shall produce glare so as to cause illumination beyond the boundaries of the property on which it is located in excess of 0.5 footcandle. All exterior lighting,

including security lighting, in connection with all buildings, signs or other uses shall be directed away from adjoining streets and properties. The City Planning Board may require special efforts to reduce the impacts of exterior lighting, such as limiting hours of lighting, planting screening vegetation, or installing light shields to alleviate the impact of objectionable or offensive light and glare on neighboring residential properties and public thoroughfares.

- E. Review procedures. As a part of site plan review of an application for the establishment of a use which, in the reviewing board's judgment, could have potentially objectionable external aspects and therefore be subject to these performance standards, the reviewing board may require the applicant, at his or her own expense, to provide such evidence as it deems necessary to determine whether the proposed use will comply with these standards.

§ 300-__ . Environmental constraints

- A. Wetlands in lot area calculations. In computing minimum lot sizes pursuant to the Dimensional Table, the area of wetlands shall be subtracted from the total acreage in the lot area calculations.
- B. Steep Slopes. For any subdivision, special permit, site plan, building permit, zoning permit, or variance that involves the disturbance of slopes greater than 15%, conditions shall be attached to ensure that:
- (1) Adequate erosion control and drainage measures will be in place so that erosion and sedimentation do not occur during or after construction.
 - (2) Cutting of trees, shrubs, and other natural vegetation will be minimized,
 - (3) Safety hazards will not be created due to excessive road or driveway grades or due to potential subsidence, road washouts, landslides, flooding, or avalanches.
 - (4) Proper engineering review of plans and construction activities will be conducted by the City to ensure compliance with this section, paid for by escrow deposits paid by the applicant.
 - (5) No certificate of occupancy will be granted until all erosion control and drainage measures required pursuant to this section have been satisfactorily completed.
- C. Slope determinations shall be made based upon the topographic information required for a particular approval, along with such other topographic information as a reviewing board or official shall reasonably require or the applicant shall offer. In cases of uncertainty or dispute, a qualified professional retained by the town, at the applicant's expense, shall determine the location of regulated slopes.
- D. Not more than 50% of any land within easements or rights-of-way for overhead utilities (69 kv or greater) or within a designated street line shall be counted as part of any minimum lot area requirement. No building, structure, yard or land proposed for prolonged habitual human occupancy shall be located within such easement; however, a road may traverse the easement.
- E. In calculating minimum lot area or allowable density, or dwelling unit count subject to Section ____ CONSERVATION DEVELOPMENT the portion(s) of the lot subject to the following shall be counted at 50% of its size
- (1) Ponds, streams, rivers, lakes;
 - (2) Delineated Wetlands
 - (3) Lands having slopes greater than 30%
 - (4) Areas within the Federal Emergency Management Agency designated one-hundred- and five-hundred-year floodplains and floodways;
 - (5) Areas within the WPO
 - (6) Ridgelines

- (7) Scenic Viewsheds
- (8) Ecologically sensitive areas and other environmentally sensitive features determined by the City Planning Board.

§ 300-___. Screening and buffering in nonresidential districts

With respect to lots in the “C”, “Ind”, and “PO”

- A. There shall be a landscaped buffer strip along each boundary which adjoins a lot in the R-Low, R-Med, or R-High district or, an existing dwelling in any district. This strip shall be at least 10 feet in width and shall contain a screening or plantings in the center of the strip not less than four feet in width and six feet in height at the time of occupancy of such lot. This planting strip shall be maintained by the owner or occupant and shall be maintained as a dense screen on a year-round basis.
- B. At least 50% of the plantings shall consist of evergreens.
- C. At the discretion of the City Planning Board, a solid wall or fence of at least six feet in height may be substituted for such a landscaped buffer strip.

§ 300-___. Parking and storage of tractors, trailers, and buses; penalties for offenses

- A. No person shall park, keep, or store, nor permit the parking, keeping, or storing on any lot within the R-Low, R-Med, or R-High districts of any “tractor”, “tractor-trailer combination”, “semitrailer”, or “bus” as defined in the Vehicle and Traffic Law of the State of New York.
- B. This section shall not be construed as permitting the continuation of any such storage, parking, garaging, or keeping as a nonconforming use, except as to a business lawfully in operation as of the effective date of this Chapter.
- C. The outside storage of not more than 1 unoccupied recreational vehicle or boat and trailer not exceeding 35 feet in length is permitted within lots in the R-Low, R-Med, and R-High districts.

§ 300-___. Outdoor Swimming Pools

- A. All swimming pools must meet the requirements of the New York State Building Code and must be operated and maintained in compliance with the New York State Sanitary Code.
- B. No swimming pool shall be filled or used until the Building Inspector certifies that the swimming pool meets all necessary requirements and that the owner has presented evidence of liability insurance of not less than \$100,000.

§ 300-___. Preservation of public rights-of-way

- A. Notwithstanding any other provision contained herein, the rights of the City to open, grade, pave and complete for public use the several streets and roads laid out pursuant to the authority of the Laws of 1867, Chapter 674, and set forth in the Commissioner's Report of the Streets and Roads in the City of Newburgh dated February 11, 1868, shall be preserved and maintained.
- B. Notwithstanding any other provision contained herein and for the purpose of ensuring a connection between the shore of said City and the navigable waters of the Hudson River and enabling the authorities of the City to extend all streets terminating at the river into the waters of the Hudson River, all estate, title and interest to all such lands under water of the river in front of said streets shall be vested in the City for the use and purpose of public streets and highways forever.
- C. Notwithstanding any other provision contained herein, all existing public rights-of-way and easements, including but not limited to rights of travel on City streets and access to the Hudson River, shall be preserved and maintained.

- D. Notwithstanding any other provision contained herein, all rights granted to the City of Newburgh by the Charter of the City of Newburgh and the laws of the State of New York to extend existing City streets to the Hudson River shall remain in force and effect.
- E. Notwithstanding any other provision contained herein, all rights granted to the City of Newburgh by the Charter of the City of Newburgh and the laws of the State of New York to extend Front Street shall remain in force and effect.

§ 300-___. Public Utilities

Nothing in this Chapter shall restrict the construction or use of underground or overhead distribution conduits of public utilities operating under the laws of the State of New York. Public utility buildings and electrical substations are permitted in all zoning districts; however, they are only permitted in a residential district when the location within such district is necessary for the direct furnishing of service to customers and provided that no offices, warehouses, construction or repair shops or garage facilities are included and provided that a special permit is obtained from the City Planning Board. Nothing herein shall be construed to allow cellular or personal communication facilities in accordance with this section.

§ 300-___. Mobile Homes

No mobile home shall be permitted in any district in the City of Newburgh, except as an office by a contractor during construction, upon issuance of a permit by the Building Inspector and payment of the appropriate fee.

§ 300-___. Animal Care Facilities

A. Animal Care Facilities

- (1) The City Planning Board will stipulate the maximum number and type of animals to be boarded based on site conditions, ability of the proposed facility to provide a safe and sanitary environment for the animals and their caretakers, and the ability to mitigate any potential noise, odor, or community character impact.
- (2) The City Planning Board may consider the number and size of animals to be sheltered and impose reasonable conditions to protect neighbors, aesthetic impact and animal safety in order to ensure the health, safety and general welfare of the community.
- (3) All boarding of pets shall be indoors.
- (4) If stored outside, no animal waste or substance which produces a noxious or offensive odor or dust shall be stored or permitted to accumulate within 200 feet from any lot line, 100 feet from any street, wetland, lake or stream. The storage area, whether inside or outside, shall not attract or harbor vermin, rodents, flies or other animals and shall be subject to the approval of the City Planning Board. The Building Inspector or other Code Enforcement Officer shall retain the right to inspect the animal waste storage facility at any time due to improper handling or odor problems. If the Building Inspector or other Code Enforcement Officer determines that a problem does exist, he or she shall so notify the owner in writing and the owner must commence steps to rectify the situation within a timely fashion but not to exceed 30 days. If the problem is not rectified in a satisfactory manner, the Building Inspector or other Code Enforcement Officer may commence criminal proceedings against the owner or other person(s) responsible for such violation(s) and, upon a conviction thereof, such owner or other responsible person shall be liable for any and all fines and/or penalties applicable to violations of this chapter. If the situation is not rectified within 30 days from the date upon which the violation should have been rectified, the Town Board may commence any and all appropriate proceedings for revocation of the special permit. Such proceedings for revocation of the special permit.

§ 300-__ . Adult Uses

- A. Location. No adult use shall be located within five hundred feet of:
- (1) Any dwelling, provided that as of the date of adoption of this Chapter said dwelling existed.
 - (2) Any lot within the R-Low, R-Med, R-High, MU, D-1, D-2, D-3, or PW zoning districts.
 - (3) Another adult use.
 - (4) Any school, church, house of worship, park, playground, or playing field.
- B. No more than one adult use as defined in this Chapter shall be located on any lot.
- C. In all districts, a nonconforming adult use shall terminate within one year after the date of adoption of this Chapter or from such later date that the adult establishment becomes nonconforming, except that such use may be continued for a limited period of time by the Zoning Board of Appeals provided that:
- (1) An application is made by the owner of such use to the Board of Appeals at least 120 days prior to the date on which such use must terminate.
 - (2) The applicant has made, prior to the nonconformity, substantial financial expenditures related to the nonconforming use;
 - (3) The applicant has not recovered substantially all of the financial expenditures related to the nonconforming use; and
 - (4) The period for which such use may be permitted to continue is the minimum period sufficient for the applicant to recover substantially all of the financial expenditures incurred related to the nonconforming use.
 - (5) For the purpose of this section, "financial expenditure" shall mean the capital outlay made by the applicant to establish the adult use, exclusive of the fair market value of the building in which the use is located and exclusive of any improvements unrelated to the nonconforming adult use.

ARTICLE __ – OFF-STREET PARKING AND LOADING

§ 300-__ . General Requirements

- A. Applicability. In any district, if a structure is constructed, the use of any structure is enlarged or extended and the use of any lot is established or any existing use is changed after the effective date of this Chapter, off-street parking and off-street loading spaces shall be provided in accordance with the requirements of the bulk and area tables for the appropriate district as well as the requirements of this article.
- B. Exemption. If a structure or use in existence prior to the effective date of this Chapter is expanded or enlarged, it shall not have to comply with the requirements of this Article if such expansion or enlargement would require less than a 15% increase in the number of parking spaces that would have been required of the use as it existed on the effective date of this Chapter.
- C. When units or measurements determining the number of required parking or loading spaces result in a requirement of a fractional space, any fraction equal to or greater than one-half shall be rounded up.
- D. Except as provided in Section §_____[SHARED PARKING IN SITE PLAN] or Section §_____[SPECIAL PARKING PERMIT], parking and loading spaces required by this Chapter shall be required to be on the same lot as the use they are intended to serve.
- E. No off-street parking shall be permitted within the front yard in any district.

§ 300-__ . Off-Street Parking Standards

- A. ‘Traditional’ Zoning Districts. ‘Traditional’ zoning districts, as defined in defined in § 300-(B), shall be subject to the minimum off-street parking requirements specified in the *Schedule of Bulk, Area, and Parking Regulations*.
- B. ‘Form-Based’ Zoning Districts. ‘Form-Based’ zoning districts, as defined in defined in § 300-(C), shall be subject to the minimum off-street parking requirements specified in Article _____.

§ 300-__ . Design, layout and construction of parking areas.

- A. Standards for Parking and Loading Spaces. When five (5) or more parking spaces or two (2) or more loading spaces are required, said spaces shall meet the following standards, and the plans shall be approved by the Building Inspector.
 - (1) Each perpendicular parking space shall not be less than nine feet by 18 feet. No less than 300 square feet of parking area, including space for maneuvers, shall be provided per parking space, and the arrangement of parking spaces shall be approved by the Building Inspector.
 - (2) Each loading space shall be not less than 1,000 square feet in horizontal area nor less than 14 feet in height, including space for maneuvering, and the arrangement of layout of off-street loading areas shall be approved by the Building Inspector.
 - (3) Any portion of any entrance or exit driveway shall not be closer than 20 feet to the curblines of an intersecting street nor closer than five feet to any lot line, and both distances shall be maintained by a curb.
 - (4) Any two driveways leading from a street to a single lot shall not be within 30 feet of each other at their intersections with the front lot line for an interior lot and 40 feet for a corner lot.
 - (5) Any entrance or exit driveway for a residential use shall not exceed 20 feet nor be less than 12 feet in width at its intersection with the front lot line. Any entrance or exit driveway for a nonresidential use shall not exceed 24 feet nor be less than 12 feet in width at its intersection with the front lot line.

- (6) Exits and entrances shall be a minimum of 50 feet from any other “R” district located on the same side of the street on which the entrance or exit abuts.
- (7) Exits and entrances shall be a minimum of 200 feet, as measured along the side of the street on which they abut, from any school, public playground, church, public library, hospital, or institution for dependents or children.

B. Location and screening.

- (1) All off-street parking shall be located behind or to the side of the principal building, except as provided in Subsection _____. Parking spaces located in a side yard shall, if possible, be screened from public view. Adjoining parking areas shall be connected directly to one another or to a service road or alley wherever feasible to reduce turning movements onto roads.
- (2) If a parking lot containing 5 or more spaces lies within or borders the WPO, or any R District, a buffer zone at least 10 feet wide shall be planted with trees or dense vegetation to provide screening along all boundary lines, unless the adjoining properties are in the “C”, “PO”, or “Ind” districts.
- (3) No portion of the area used for parking within the “Commercial”, “Industrial”, or “Planned Office” districts shall be within 20 feet of a residential dwelling on an adjoining lot.

C. Construction of parking areas. Parking areas shall be surfaced with a suitable durable dustless surface, including but not limited to asphalt, concrete, paving stones, or Belgian block, which shall meet the approval of the City Planning Board. Parking areas shall be constructed with adequate drainage. Surfacing, grading, and drainage shall facilitate groundwater recharge by minimizing impermeable pavement and runoff. Overflow or peak period parking surfaces shall be permeable. Oil traps may be required for larger paved parking lots.

D. Landscaping and Screening

- (1) Parking areas shall be designed and landscaped to avoid long, uninterrupted rows of vehicles by breaking them into separate parking lots divided by tree lines, alleys, pedestrian areas, or buildings. Parking lots containing more than 40 spaces shall be divided into smaller areas by landscaped islands at least 15 feet wide located no more than 120 feet apart. All islands shall be planted with three-inch minimum caliper shade trees at a density of at least one tree for every 20 linear feet of island. Parking lots containing fewer than 40 spaces shall provide at least one three-inch minimum caliper shade tree per eight spaces.
- (2) The screening shall consist of a solid fence or wall not less than three feet nor more than six feet in height or shrubbery planted not more than three feet apart on center, at least two feet from the lot line, and all maintained in good condition. No portion of an area used for parking shall be closer than five feet to a sidewalk.
- (3) A substantial bumper of masonry, steel or heavy timber shall be placed near all interior lot lines to protect structures and property abutting a parking or loading area for parking areas with five vehicles or more.

E. Lighting. Lighting within parking lots shall be on low poles of 12 feet to 15 feet maximum height, with color-corrected lamps and cutoff luminaires designed to minimize glare and light pollution. Design of poles and luminaires shall be compatible with the style of the architecture and adjoining streetscape treatment. Sidewalks leading from parking lots shall be lit with bollard lighting and indirect illumination of buildings and vegetation.

F. Nonconforming parking lots shall be brought into conformity with this Subsection ____ to the extent practical whenever a site plan or special permit application is filed for an expansion or change of the use.

§ 300-___. Other requirements for off-street parking areas

- A. There shall be no vehicle repair facilities or any repair made to any motor vehicle within an area required for off-street parking.
- B. There shall be no storage of material, fuel, or equipment, except as part of approved building operations.

§ 300-___. Off-Street Loading Space Requirements

- A. General requirement. Loading docks and service areas shall be located to minimize visual intrusion on public spaces and ensure pedestrian and automobile safety by separating truck traffic and loading operations from pedestrian and automobile circulation. Where appropriate, loading docks shall be screened by walls extending from a building face or placed within arcades or other architectural features assigned to blend them with the architecture of the building. Adjacent buildings shall be sited to allow shared access to loading docks through the use of common loading zones or service alleys.
- B. In any district, in connection with every building or building group or part thereof hereafter erected and having a gross floor area of 10,000 square feet or more which is to be occupied by industrial, distribution, or commercial uses, there shall be provided and maintained on the same zone lot with such building off-street loading berths in accordance with the following requirements:

Use	Square Feet of Floor Area	Required Off-Street Loading Berths
Retail, commercial wholesale, industrial storage	10,000 – 25,000	1
	25,000 – 40,000	2
	40,000 – 60,000	3
	60,000 – 100,000	4
	For each additional 50,000	+1
Marinas, Boat Repair	Per 10,000	+1

- C. Each loading space shall be not less than 10 feet in width, 25 feet in length, and 14 feet in height and may not occupy any park of a required front or side yard.

§ 300-___. Shared Parking and Special Off-Street Parking Permit

- A. The use of the same off-street parking or loading spaces by two or more uses is allowed, subject to the provisions of Section _____ [SITE PLAN] or when an Applicant has been granted a Special Off-Street Parking Permit pursuant to the requirements of this section.
- B. When an application made pursuant to this Chapter does not require Site Plan Approval, an Applicant may apply for a Special Off-Street Parking Permit from the City Planning Board.
- C. The City Planning Board may grant a Special Off-Street Parking Permit to an Applicant in order modify the number of parking spaces otherwise required by Section _____.
- D. In order to grant the Special Off-Street Parking Permit and modify the required off-street parking requirements, the City Planning Board must find that
 - (1) Such a reduction would still allow for adequate off-street parking given the use and the zoning district; or,
 - (2) Adequate on-street parking within 500 feet is available; or,
 - (3) The owner can secure a written agreement for shared parking from a use within 500 feet.

- E. When off-street parking or loading serves two or more uses, whether such uses are on the same lot or on separate lots within 500 feet, the City Planning Board may reduce the number of off-street parking spaces required of each use if it finds that the number of off-street parking spaces proposed will substantially meet the intent of this article by reason of variation in the probable time of maximum parking demand for each use. In such event, the City Planning Board may condition the Special Off-Street Parking Permit on certain hours of operation for each use.
- F. Procedure.
- (1) Applications for a Special Off-Street Parking Permit shall be submitted to the Building Inspector in the manner and form proscribed by the City Planning Board, accompanied by the fee as listed in Chapter _____ of the Code of the City of Newburgh.
 - (2) Complete applications for a Special Off-Street Parking Permit that are received by the deadline stipulated in the approved City Planning Board Policies and Procedures, which is available in the office of the Building Inspector, will be reviewed by the City Planning Board at the next regularly scheduled meeting.

ARTICLE __ – NONCONFORMING USES AND STRUCTURES

§ 300-__ . Continuation of nonconforming uses and structures

- A. Any structure or use, which was legal when built or commenced and which was in existence at the time of enactment or amendment of this Chapter, which becomes non-conforming as a result of such enactment or amendment of this Chapter, may be continued as a legal non-conforming use.
- B. Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three months of the date of such permit and the ground story framework of which, including the second tier of beams, shall have been completed within six months of the date of the permit and which entire building shall be completed according to such plans as filed within one year from the date of this Chapter.

§ 300-__ . Discontinuance and Reestablishment

- A. Discontinuance. Whenever a nonconforming use has been discontinued for a period of 18 months, such use shall not thereafter be reestablished except as provided in subsection A, and any future use shall be in conformity with the provisions of this Chapter.
- B. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.
- C. Reestablishment. The City Planning Board may issue a special permit for the reestablishment of the use after the 18 month period has expired if the applicant has been prevented from continuing the use during the one-year period due to strikes, acts of God, disability, or other similar hardship beyond the applicant's control

§ 300-__ . Change of Non-Conforming Uses

- A. A nonconforming use of a structure or parcel of land may, upon Special Permit by the City Planning Board, be changed to another non-conforming use, which is of the same or lesser impact, except that no use prohibited by §ARTICLE ____, shall be permitted under any circumstances. No structure in which a non-conforming use has been changed to a use of lesser impact shall again be devoted to a non-conforming use with greater impact. In determining whether a use is of greater or lesser impact, the City Planning Board shall consider the impact criteria listed in § ARTICLE____ [SPECIAL PERMIT CRITERIA] shall not be extended or expanded. No nonconforming use shall be extended to displace a conforming use.
- B. Any nonconforming use of any open space on a lot outside a structure or of a lot not occupied by a structure shall not be extended.
- C. Any conforming principal use of a nonconforming structure may be extended throughout the existing structure.
- D. A nonconforming structure shall not be moved to any other location on the lot or any other lot unless every portion of such structure, the use and the lot shall be conforming.

§ 300-__ . Restoration, Expansion and Repair

A non-conforming use or structure shall not be extended, enlarged, or structurally altered except as provided below.

- A. Any non-conforming use or structure determined to be unsafe may be restored to a safe condition, provided that such work on any nonconforming structure shall not place it in greater non-conformity.

- B. A building used for residential purposes, that is a non-conforming structure or use may be rebuilt in the event of its total or partial destruction by fire or other in accordance with the provisions provided below. Such rebuilding shall require Site Plan approval by the City Planning Board.
- (1) The area occupied by the foundation of the building must occupy the same or lesser amount of the area occupied by the damaged building.
 - (2) The rebuilt structure may not exceed the original height of the total or partially destroyed structure.
 - (3) The total square footage of the repaired or rebuilt building must be the same as, or less than, the damaged or destroyed building.
- C. "Building used for residential purposes," as used herein, shall mean a building which at the time of the damage by fire or other causes was used solely for residential purposes or, if the building was vacant, that is designed solely for residential purposes.

§ 300-___. District changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

§ 300-___. Special permit uses

Any preexisting legal use which is allowable by special permit under this Chapter, but which has not been issued a special permit, shall be considered a permitted use. The expansion of such a use shall require site plan approval, unless such expansion has been permitted by a prior site plan approval.

§ 300-___. Construction started prior to this Chapter

Any structure, for which construction was begun prior to the effective date of this Chapter, or of any amendment thereto, may be completed and used in accordance with the approved plans and specifications for such structure. Any structure for which construction has not begun pursuant to approved plans shall be subject to the provisions of this Chapter and any amendments thereto, even if all pre-construction approvals have been granted. For purposes of this Subsection, "beginning construction" shall mean excavation and the pouring of footings or the installation of any other means of permanently attaching a structure to the ground.

§ 300-___. Existing nonconforming lots

- A. Any lot of record created prior to the effective date of this Chapter, which does not comply with the area, density, or dimensional requirements of this Chapter shall be deemed to comply with such requirements, and no variance shall be required for its development or for any addition to or other alteration of a structure, provided that the following conditions are satisfied.
- (1) The following minimum area and dimensions are maintained, unless smaller dimensions are permitted in the district:
 - (a) Lot area: **XXX** square feet.
 - (b) Front setback: not less than **XXX** (30) feet from the center line of the road.
 - (c) Side setback: **XXX** (20%) of lot width but not less than **XXX** feet per side.
 - (d) Rear setback: **XXX** (15%) of lot depth but not less than **XXX** feet.
 - (2) All Health Department regulations are satisfied.

- B. A nonconforming lot may be subdivided only if the subdivision plat shows that every subdivided portion of such lot will be merged with adjoining properties to increase the area of such properties, thereby eliminating the nonconforming lot.
- C. Notwithstanding the foregoing provisions, any undeveloped lot in a subdivision which was not properly approved by the City Planning Board or City Council or not filed in the office of the County Clerk, and whose area or dimensions do not comply with the requirements of this Chapter, shall be considered a violation of this Chapter and shall not be protected under Section § 300-A.

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ARTICLE __ – SITE PLAN APPLICATION AND APPROVAL

§ 300-__ . Site Plan Review

- A. Purpose. The City of Newburgh requires Site Plan Review by the City of Newburgh Planning Board in accordance with the requirements of § _____ (USE TABLE) of this Code of the City of Newburgh. The Purpose of the Site Plan Review process is to provide oversight of specific types of development to ensure compliance with all appropriate land development regulations and consistency with the City’s adopted planning and policy documents.
- B. Applicability. Site plan approval by the City of Newburgh Planning Board shall be required for all permitted uses listed in the Use Table as requiring site plan approval only. Site Plan review shall be included as an integral part of the special permit approval process as required in § ____ (SPECIAL PERMIT USES) of this chapter.

§ 300-__ . Required Information

- A. An application for site plan approval shall be accompanied by plans and descriptive information sufficient to clearly portray the intentions of the applicant. Site plans shall be prepared by a licensed professional engineer, architect, or landscape architect and shall include the following (unless waived by the City of Newburgh Planning Board):
- (1) A vicinity map drawn at the scale of 1,000 feet to the inch or larger that shows the relationship of the proposal to existing community facilities which affect or serve it, such as roads, shopping areas, schools, etc. The map shall also show all properties, subdivisions, streets, and easements within 500 feet of the property.
 - (2) An existing conditions map, showing existing buildings, roads, utilities, and other man-made features, as well as topography and all existing natural land features that may influence the design of the proposed use, such as rock outcrops, existing watercourses, wetlands, floodplains, drainage retention areas, soils, marshes, wooded areas, single trees with a diameter of 12 inches or more, measured three feet above the base of the trunk, and other significant existing features located within any area where clearing will occur,
 - (3) A field survey of the boundary lines of the parcel, giving complete descriptive data by bearings and distances, made and certified by a licensed surveyor. .
 - (4) A site plan, drawn at a scale and on a sheet appropriate to the project. The information listed below shall be shown on the site plan and all sheets submitted in the site plan application package:
 - (a) Name of the project, section, block and lot number, street names and project site boundaries, fire lanes, date of plan, North arrow, and scale of plan, name and address of the owner of record, developer, and seal of the engineer, architect, and landscape architect. If the applicant is not the owner of record, a letter of authorization shall be required by the owner.
 - (b) The names of all owners of record of all adjacent property within 500 feet of the site’s perimeter.
 - (c) Zoning district boundaries within 500 feet of the site’s perimeter shall be drawn and identified on the site plan, as well as any school, overlay and/or special district boundaries.
 - (d) Boundaries of the subject property; building or setback lines if different from those required in this chapter, and lines of existing streets and lots as shown on the official map of the City of Newburgh or City tax map.
 - (e) Easements, and areas dedicated to public use, if known, shall be shown.

- (5) The location and use of all existing and proposed structures within the subject property as shown on the official map of the City of Newburgh or tax map, including all dimensions of height, area, all exterior entrances, and all anticipated future additions and alterations.
- (6) The location, height, size, materials and design of all proposed signs.
- (7) Traffic flow patterns within the site, entrances and exits, and loading and unloading areas, as well as curb cuts on the site and within 100 feet of the site. The City of Newburgh Planning Board may, at its discretion, require a detailed traffic study for large developments or for those in heavy traffic areas to satisfy the requirements of §____, ENVIRONMENTAL PERFORMANCE STANDARDS.
- (8) The location, size, dimensions, access and egress, circulation patterns and design of any off-street parking areas, including location of handicapped accessible parking and required signage.
- (9) The location of all present and proposed overhead or underground utility systems including:
 - (a) Sewage lines, septic systems.
 - (b) Water Supply System (valves and hydrants, wells)
 - (c) Telephone, cable and electrical systems
 - (d) Storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes and drainage swales.
- (10) Erosion and sedimentation control plan to prevent the pollution of surface or ground water, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties as applicable.
- (11) Existing and proposed topography at two foot contour intervals or such other contour interval as the Board shall specify. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark.
- (12) The location of all floodplain boundaries as determined by the Federal Emergency Management Agency. In accordance with Chapter 175, Flood Damage Prevention, of the Code of the City of Newburgh, if any portion of the parcel is within the one-hundred-year floodplain, the area will be shown and base flood elevations given. Areas shall be indicated within the proposed site and within 50 feet of the proposed site where soil removal or filling is required, showing the approximate volume in cubic yards. The plan shall specify all nonstructural measures to minimize flood damage, including but not limited to:
 - (a) The setback of buildings and structures away from the floodplain.
 - (b) The planting of vegetation and the installation of drainage.
 - (c) The floodproofing of buildings or their elevation above the base flood level.
- (13) Lighting Plan, including the existing and proposed location, height, intensity and bulk type (sodium, incandescent, etc.) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties shall also be shown.
- (14) Landscaping, planting and grading plan showing proposed changes to existing features and any proposed new features.
- (15) For new construction or alterations to any structure, a table containing the following information shall be included:
 - (a) Estimated area of structure intended to be used for particular uses such as retail operation, office, storage, etc.;
 - (b) Estimated maximum number of employees;

- (c) Maximum seating capacity, where applicable; and
 - (d) Number of parking spaces existing and required for the intended use.
 - (16) Elevations at a scale of 1/4 inch equals one foot for all exterior facades of the proposed structure(s) and/or alterations to or expansions of existing facades, showing design features and indicating the type and color of materials to be used.
 - (17) Where appropriate, the City of Newburgh Planning Board may request soil logs, percolation test results, and storm runoff calculations.
 - (18) Disposition plans for disposal of construction and demolition waste, either on site or at an approved disposal facility.
 - (19) SEQRA - Short form environmental assessment form or draft environmental impact statement.
 - (20) Where appropriate, a cultural resource survey of resources with historic or archaeological significance.
 - (21) Where the applicant wishes to develop in stages, the site plan application must include the complete ultimate proposed development
 - (22) Identification of any hazardous materials associated with a proposed industrial use.
 - (23) Disclosure of information on the use, storage, treatment and disposal of any hazardous materials associated with a proposed industrial use.
 - (24) Other information that may be deemed necessary by the City of Newburgh Planning Board.
- B. Additional Viewshed Analyses for the WG, PWD, and portion of the DN district.
- (1) Purpose and Intent. The purpose of this sub-section is to protect and enhance the City's scenic viewshed, comprised of natural, aesthetic and cultural resources formed by the landscape and geologic features of the City. It is the intent of the City of Newburgh to preserve scenic views to and from the Hudson River, the Hudson Highlands and the East Bank of the Hudson River.
 - (2) The views from the following locations are recognized by the City of Newburgh as providing significant benefits to the residents and visitors of Newburgh and as important parts of Newburgh's cultural heritage. The detailed description of the current views is noted specifically, to highlight the character of the current view as emphasis to the importance of its preservation.
 - (a) Montgomery and South Streets. From this vantage point looking south-southeast, the view is of Hudson Highlands, Bannerman's Island, and the Hudson.
 - (b) Washington's Headquarters. The views to the southeast and west focus on the Hudson River and mountains beyond. The Hudson River, the lawn and the roof line of the building in the center of the view are all horizontal in character. The view to the northeast provides a clear view of the Hudson River, the mountains beyond and the Newburgh-Beacon Bridge.
 - (c) Broadway and Colden Street. The foreground of the northeastern view is occupied by open space that has been identified for pedestrian walkways to the waterfront. Marine Drive runs parallel to the Hudson River in the middle ground. On the Hudson River's edge, in the background, are low buildings that do not obstruct the view. The Newburgh-Beacon Bridge fades into the horizon. The view to the southeast features the sloping parkland in the foreground, low industrial buildings and a marina bay in the middle ground. The southeast view is dominated by the Hudson River and the Hudson Highlands between which the Hudson River winds. Similarly, the eastern view is dominated by the Hudson River and the Hudson Highlands. The middle ground is occupied by industrial use. The foreground is sloping parkland and a site **proposed for public recreation**.

- (d) Newburgh Public Library. The view from the eastern wall of the Newburgh Public Library, at an elevation of approximately 100 feet above sea level, provides a view of the Hudson River and mountains from every direction.
 - (e) First and Montgomery Streets – The southerly view (to the south) terminates at Orange Community College (Key Bank Building). The north-facing view is of the Hudson Highlands, Hudson River, and the Newburgh-Beacon Bridge. Existing structures on the waterfront frame the bottom of the view from this highpoint.
 - (f) Bay View Terrace – The views from Bay View Terrace, between Overlook Place and Monument Street offer views of the Hudson River, Hudson Highlands, Bannerman’s Island, and points north and south.
- (3) Visual Impact Analysis
- (a) All applications for Site Plan Approval within the WG or PWD districts shall be evaluated for their impacts to the scenic views defined above during the Site Plan review process.
 - (b) Applications for Building Permits or Site Plan Approval within the DN district south of Renwick Street must also be evaluated for their impacts to the scenic views defined above. Where an Application for a Building Permit is submitted to the Building Department, the Building Inspector shall refer the application to the Planning Board.
 - (c) The City Planning Board can, at their discretion, require visual impact analysis from additional locations to be identified during the Site Plan review process.
- (4) Visual Impact Analysis Methodology
- (a) In connection with the Site Plan Approval process, the City Planning Board shall require the Applicant to prepare photographic simulations of the proposed structure(s), within the context of the site, to determine whether or not a proposed structure or activity will adversely affect the scenic viewshed.
 - (b) The City Planning Board can authorize alternative state-of-the-art visual impact assessment techniques to be employed by an Applicant in the preparation of the Visual Impact Assessment. Use of an alternative visual impact assessment methodology may only be employed by mutual agreement of the Applicant and the City Planning Board.
- (5) Referral. To assist in the evaluation, the City Planning Board shall refer all applications for Site Plan Approval within the WG and PWD Zoning Districts to the Conservation Advisory Commission. Such referral shall be done so as to allow the CAC at least 30 days to review and return comments.
- (6) Public Hearing. The City Planning Board must hold a public hearing on all site plan applications in accordance with Section §_____[PUBLIC HEARING CRITERIA].
- (7) Evaluation Criteria. When making their determination of impacts to the scenic viewshed, Site Plan approval may only be granted the City Planning Board if, with appropriate conditions attached, the proposed activity:
- (a) Will not significantly impair scenic character and will be aesthetically compatible with its surroundings
 - (b) Will minimize the removal of native vegetation, except where such removal may be necessary to open up or prevent the blockage of scenic views and panoramas from public places.
 - (c) Will locate and cluster buildings and other structures in a manner that minimizes their visibility from public places.

(8) Waivers. The City Planning Board may waive one or more of the specific requirements of this section § 300_____ upon a written finding that such waiver will not impair the scenic preservation purposes of this Article. Any development which is the subject of a detailed visual assessment as part of an environmental impact statement shall be eligible for such waivers if supported by SEQR findings.

C. Waivers. Upon findings by the City of Newburgh Planning Board that, due to special conditions peculiar to a site, certain information required in Subsection A, is inappropriate or unnecessary, the Board may vary, waive or defer the provision of such information, provided that such variance or waiver will not have detrimental effects on the public health, safety, or general welfare or have the effect of nullifying the intent and purpose of the site plan submission, City of Newburgh Master Plan or this chapter.

§ 300-__ . Procedures

A. Applicability. This section applies for site plan approval applications where no special use permit is required.

B. Pre-Application Planning Board Workshop.

(1) Purpose. The purpose of the optional Pre-Application Planning Board Workshop is to provide cooperative consultation between the City of Newburgh and Applicants by providing the Applicant with the opportunity for informal discussion of site development proposals with the City Planning Board. The goal of the Pre-Application Planning Board Workshop discussion is for the City Planning Board to guide Applicants toward productive use of their land within the regulations, thereby avoiding and minimizing to the extent practicable, the potential for environmental impact. The intent of the Pre-Application Planning Board workshop is for the City Planning Board to provide Applicants with their general impressions of the proposed site development application, and provide the Applicant with general suggestions and advice, which may be incorporated into the formal submission.

(2) Process. Once the Building Inspector has referred an application to the City Planning Board for Site Plan Approval in accordance with the requirements of § _____ USE TABLE , and prior to submission of a formal site development plan, an applicant may request to be placed on a City Planning Board Workshop for an informal discussion of the proposal with the City Planning Board. Materials provided by the Applicant to the City Planning Board can be schematic, but provide sufficient information for the City Planning Board to provide informal comments and direction to the Applicant.

C. Post-Application Technical Workshop.

(1) Purpose. The purpose of the mandatory Post-Application Technical Workshop is to provide Applicants with the technical expertise of the City Staff in advance of filing a formal application. The goal of the Post-Application Technical Workshop is to provide Applicants with technical guidance on the required submission materials, and the roadmap through the review and approvals process.

(2) Process. Prior to the submission of a formal site development plan, the Applicant must meet with the City Engineer, City Attorney, City Building Inspector, Department of Planning and Development, City Department of Fire Prevention and City Planning Board Chairperson (or designated representative) to discuss the proposed site development plan in order to determine, which of the subsequent requirements may be necessary in developing and submitting the required site plan.

D. Submission: An application for site plan approval shall be submitted to the Building Inspector, in accordance with the submission requirements (number of copies, digital files, etc.) and within the required deadlines stipulated in the approved City Planning Board Policies and Procedures

available in the office of the Building Inspector. The information enumerated in § 300-____ REQUIRED INFORMATION, shall be submitted, as required along with:

- (1) A SEQRA Environmental Assessment Form or Draft Environmental Impact Statement
 - (2) The site plan application fee and any required escrow deposit for review costs, as determined by the City Engineer.
- E. Application for area variance. Where a proposed site plan contains one or more features which do not comply with the dimensional regulations of this chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to §____ZONING BOARD OF APPEALS without a decision or determination by the Building Inspector.
- F. SEQRA compliance. Upon receipt of application materials it deems complete, the City of Newburgh Planning Board shall initiate the New York State Environmental Quality Review process by either circulating the application and environmental assessment form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 20 days. Where the proposed action may have a significant effect on the environment, the City Planning Board shall issue a positive declaration and require the submission of a draft environmental impact statement (DEIS). No time periods for decision-making in this chapter shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation regulations or the issuance of a negative declaration.
- G. Referrals
- (1) Orange County Department of Planning. Upon receipt of application materials it deems to be complete, the City of Newburgh Planning Board shall refer to the Orange County Department of Planning in accordance of Section 239m of the General Municipal Code, any application for a site plan affecting real property, which shall be accompanied by a full statement of the matter under consideration, as defined herein, within 500 feet of the boundary of:
 - (a) The municipal boundaries
 - (b) Any existing county or state park or other recreational area
 - (c) Any existing or proposed county or state roadway
 - (d) Any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines
 - (e) Any existing or proposed county- or state-owned land on which a public building or institution is situated.
 - (2) Conservation Advisory Council. The City of Newburgh Planning Board may refer any site plan application to the Conservation Advisory Commission for review and recommendations. Such referral shall be done so as to allow the CAC at least 30 days, running concurrently within the required 62 day City Planning Board required SEQRA timeframe, to review and return comments.

§ 300-___. Criteria

In reviewing Site Plans, the City of Newburgh Planning Board, and any City of Newburgh Board and/or Committee to which the site plan has been referred, shall consider the criteria set forth below. The City Planning Board may also use as approval criteria, the Orange County Department of Planning “Orange County Design Manual”, and may adapt the recommendations of those documents to the requirements of this chapter.

A. Layout and Design

- (1) All structures in the plan shall be integrated with each other and with adjacent structures and shall, where practical, be laid out in a pattern that is consistent with the character of the City of Newburgh and/or within the neighborhood in which the development is proposed.
 - (2) Structures that are visible from public roads shall be compatible with each other and with traditional structures in the surrounding area in architecture, design, massing, materials, and placement and shall harmonize with traditional elements in the architectural fabric of the area.
 - (3) Architectural design shall be in keeping with the character of the City of Newburgh. In general, the design shall avoid flat roofs, large expanses of undifferentiated facades, and long, plain wall sections.
 - (4) Where appropriate, setbacks shall maintain and continue the existing setback pattern of surrounding properties.
 - (5) The City Planning Board shall encourage the creation of landscaped parks or squares easily accessible by pedestrians.
 - (6) Impacts on historic and cultural resources shall be minimized.
- B. Nonpoint Source Pollution Protection Plans to achieve the following objectives:
- (1) Natural ground contours should be followed as closely as possible.
 - (2) Areas of steep slopes, where high cuts and fills may be required, should be avoided.
 - (3) Extreme care should be exercised in areas adjacent to natural drainageways so that their final gradient and resultant discharge velocity will not create additional erosion problems. Construction and post-construction runoff levels should be maintained at or below preconstruction levels at all times.
 - (4) Natural protective vegetation should remain undisturbed, if at all possible, and restored when necessary.
 - (5) The amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff should be limited.
 - (6) The velocity of the runoff water on all areas subject to erosion should be reduced below that necessary to erode the materials.
 - (7) A ground cover should be applied sufficient to restrain erosion on that portion of the disturbed area undergoing no further active disturbance.
 - (8) Runoff from a site should be collected and detained in sediment basins to trap pollutants which would otherwise be transported from the site.
 - (9) The angle for graded slopes and fills should be limited to an angle no greater than that which can be retained by vegetative cover. Other erosion-control devices or structures should be used only where vegetation and grading are not sufficient to control erosion.
 - (10) The length as well as the angle of graded slopes should be minimized to reduce the erosive velocity of runoff water.
- C. Landscaping.
- (1) Landscape buffers shall be provided between uses that may be incompatible, such as large-scale commercial uses and residences. Such buffers may include planted trees and shrubs, hedgerows, berms, existing forest land or forest created through natural succession. The width of such buffer areas will depend upon the topography, scale of the uses, and their location on the property but shall normally be between 50 feet and 200 feet.
 - (2) Landscaping at all seasons of the year, shall be an integral part of the entire project area and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.

- (3) Primary landscape treatment shall consist of shrubs, ground cover, and shade trees and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape plants selected should generally be native to the region and appropriate to the growing conditions of the growing environment.
- (4) Insofar as practical, preservation of existing trees over 12 inches in diameter will be attained to the maximum extent possible and other vegetation shall be conserved and integrated into the landscape design plan.
- (5) For landscaping parking lots, see § 300____ OFF STREET PARKING AND LOADING.

D. Parking, Circulation and Loading.

- (1) Roads, driveways, sidewalks and off-street parking and loading space shall be safe and shall encourage pedestrian movement.
- (2) Vehicular and pedestrian connections between adjacent sites shall be provided to encourage pedestrian use and to minimize traffic entering existing roads. The construction of connected parking lots, service roads, alleys, footpaths, bike paths, and new public streets to connect adjoining properties shall be required where appropriate.
- (3) Off-street parking and loading standards in § 300____ OFF STREET PARKING AND LOADING shall be satisfied. However,
 - (a) The City Planning Board shall have the authority to reduce the amount of off-street parking required in the underlying zone by up to 25% when it finds that:
 - [1] Such a reduction would still allow for adequate off-street parking given the use and the zoning district; or,
 - [2] Adequate on-street parking within 500 feet is available; or,
 - [3] The owner can secure a written agreement for shared parking from a use within 500 feet.
 - (b) When off-street parking or loading serves two or more uses, whether such uses are on the same lot or on separate lots within 500 feet, the City Planning Board may reduce the number of parking spaces that would otherwise be required for each use upon a determination by the Board that the overall number of spaces to be provided will substantially meet the intent of this article by reason of variation in the probable time of maximum parking demand of each use. In such event, the City Planning Board may condition the site plan approval on certain hours of operation for each use.
- (4) Access from and egress to public highways shall be approved by the appropriate highway department, including city, county, and state.
- (5) All buildings shall be accessible by emergency vehicles.

E. Reservation of parkland. Before the City Planning Board may approve any site plan containing residential units, such site plan shall also show, when required by such Board, a park or parks suitably located for playground or other recreational purposes.

- (1) The City Planning Board shall not require land for park, playground or other recreational purposes until it 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. Such findings shall include an evaluation of the present and future needs for park and recreational facilities in the City based on projected population growth to which the particular site plan will contribute. Such findings shall provide an individualized determination that such required dedication or reservation is related both in nature and extent to the impact of the proposed site plan.

(2) In the event the City Planning Board makes a finding pursuant to the preceding subsection that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purpose, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the City Planning Board may require a sum of money in lieu thereof. In making such determination of suitability, the Board shall assess the size and suitability of lands shown in the site plan 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 community. Any monies required by the City Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited in the City of Newburgh Fund For Parkland, to be used by the City exclusively for park, playground or other recreational purposes, including the acquisition of property. Such payment shall be a condition of site plan approval and shall be assessed in accordance with the site plan recreation fee schedule established under Chapter 163, Fees, of the Code of the City of Newburgh. No site plan shall be signed by the Chairman of the City of Newburgh Planning Board until such payment has been received by the City and receipt therefor provided to the City Planning Board.

F. Miscellaneous standards.

- (1) Buildings and other facilities shall be designed, located, and operated to avoid causing excessive noise on a frequent or continuous basis.
- (2) Exterior lighting fixtures shall be shielded to prevent light from shining directly onto neighboring properties or public ways, and to minimize light spillage. Light standards shall not exceed 20 feet in height.
- (3) Drainage of the site shall recharge groundwater to the extent practical. The peak rate of surface water flowing off site shall not increase above predevelopment conditions and shall not adversely affect drainage on adjacent properties or public roads.
- (4) Applicable requirements for proper disposal of construction and demolition waste shall be satisfied and any necessary permits or agreements for off-site disposal shall be obtained.
- (5) No materials shall be placed below the finished grade of a site other than sand, gravel, rocks, and soil that are uncontaminated by any solid waste or hazardous materials. Materials that were previously contaminated and have been reconditioned shall not be permitted under this Subsection G(5)(e), except that decontaminated material may be used as a base for road or parking lot construction, provided that such decontaminated material does not pollute groundwater or surface water.
- (6) Hazardous materials: That all hazardous materials are properly stored, treated, and disposed of.

§ 300-__ . Public Hearing

The City of Newburgh Planning Board may, at its sole discretion, hold a public hearing on the site plan in accordance with the procedures presented herein. If the City Planning Board determines that a Public Hearing is required, the City Planning Board must hold such hearing on the completed site plan application within 62 days of its submission.

A. At least 10 days prior to such hearing the Secretary of the Board shall:

- (1) Prepare the text of the public hearing notice, including the substance of the appeal or application, for mailing and publication in the official newspaper of the City, and provide the notice to the Applicant for mailing.
- (2) The Applicant will purchase, from the City of Newburgh Assessor, a list of all properties within 500 feet of the exterior boundaries of the property affected by the application and

- prepare for mailing including stamping and addressing the mailing envelopes, the public hearing notice prepared by the Secretary of the City Planning Board.
- (3) The Applicant will return the addressed and stamped mailings to the Secretary of the Board.
 - (4) The Secretary of the Board will mail the envelopes by regular mail.
 - (5) The Secretary of the Board will also cause to be published in the official newspaper of the City, at the applicant's expense, the hearing notice.
- B. Prior to said hearing, the Secretary of the Board shall prepare an affidavit of mailing, swearing that the required mailings and publication have been performed, which documents shall become part of the application. The affidavit of mailing will be made available to the Applicant to present to the City Planning Board for the record of proceedings.
- C. For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.

§ 300-___. Action

- A. The City of Newburgh Planning Board shall approve, approve with modifications and/or conditions, or deny any application for a site plan within 62 days after a public hearing, or if no public hearing is held, within 62 days of receipt of a final complete site plan application. The time within which the City Planning Board must render its decision may be extended by mutual consent of the applicant and the City Planning Board. Any decision shall contain written findings explaining the rationale for the decision in light of the standards provided herein,
- B. Criteria for decisions on site plans shall be limited to those listed in § 300-____, CRITERIA.
- C. Conditions. In granting site plan approval, the City of Newburgh Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related and incidental to the proposed Site plan and may be necessary in the Board's opinion to meet the objectives herein set forth. Upon granting of site plan approval, any such conditions must be met in connection with issuance of permits by applicable enforcement agents or officer of the City., These conditions may include:
- (1) Increasing dimensional or area requirements
 - (2) Requiring the set-aside of perpetual open space land pursuant to § 300-____ (CONSERVATION DEVELOPMENT DISTRICT),
 - (3) Specifying location, character and number of vehicle access points,
 - (4) Requiring landscaping, planting and screening,
 - (5) Requiring clustering of structures and uses in order to preserve environmental resources and minimize the burden on public services and facilities, and
 - (6) Requiring performance guaranties to insure the completion of the project in accordance with the conditions imposed.
- D. Referrals.
- (1) Orange County Department of Planning.
 - (a) No action shall be taken on applications referred to the Orange County Department of Planning until its recommendation has been received or 30 days have elapsed after its receipt of the complete application, unless the county and city agree to an extension beyond the thirty-day requirement for the Orange County Department of Planning Department's review.
 - (b) County disapproval. A majority-plus-one vote of the City of Newburgh Planning Board shall be required to grant any special permit which receives a recommendation of

disapproval from the Orange County Department of Planning. The City Planning Board shall by resolution set forth its reasons for such contrary action.

- E. The decision of the City of Newburgh Planning Board shall be filed in the office of the City Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant. A resolution of either approval or approval with modifications and/or conditions shall include authorization to the City Planning Board Chairman to stamp and sign the site plan upon the applicant's compliance with applicable conditions and the submission requirements stated herein.
- F. If the City Planning Board's resolution includes a requirement that modifications be incorporated in the site plan, conformance with these modifications shall be considered a condition of approval.
- G. If the site plan is disapproved, the City Planning Board may recommend further study of the site plan and resubmission to the City Planning Board after it has been revised or redesigned.

§ 300-__ . Implementation, Amendment and Enforcement of Approved Site Plan

- A. Implementation. Within six months after receiving approval of a site plan, with or without modifications, the applicant shall submit multiple copies, as specified in the adopted City of Newburgh Planning Board Policies and Procedures available in the office of the Building Inspector, of the site plan to the City Planning Board for stamping and signing.
 - (1) The site plan submitted for stamping shall conform strictly to the site plan approved by the City Planning Board, except that it shall further incorporate any required revisions or other modifications and shall be accompanied by the following additional information:
 - (a) Record of application for and approval status of all necessary permits from federal, state, and county officials.
 - (b) Detailed sizing and final material specification of all required improvements.
 - (c) An estimated project construction schedule. If a performance guaranty pursuant to Subsection B is to be provided by the applicant for all or some portion of the work, a detailed site improvements cost estimate shall be included.
 - (d) Proof of payment of the City Planning Board's review costs.
 - (2) Upon stamping and signing the site plan, the City of Newburgh Planning Board shall forward a copy of the approved site plan to the Building Inspector and the Applicant. The Building Inspector may then issue a building permit or certificate of occupancy if the project conforms to all both
- B. Performance guaranty. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. The performance guaranty shall be posted in accordance with the procedures specified in § 27-a.7 of General City Law. The amount and sufficiency of such performance guaranty shall be determined by the City Engineer and all required forms and security shall be approved by the City of Newburgh Corporation Counsel.
- C. As-built plans and inspection of improvements. No certificate of occupancy shall be granted until the applicant has filed a set of as-built plans with the City Engineer and Building Inspector, indicating any deviations from the approved site plan. The City Engineer and Building Inspector shall be responsible for the inspection of site improvements, including coordination with the City Engineer and shall grant a certificate of occupancy upon a finding that the project as built complies in all material respects with the site plan.
- D. Site plan amendments. An approved site plan may be amended by filing an application with the City Planning Board for a site plan amendment.

- (1) If the City Planning Board finds that such proposed amendment is consistent with the terms of any applicable site plan approval and does not represent a substantial change from the approved site plan, it shall grant the amendment.
- (2) If the City Planning Board determines that the proposed amendment is consistent with the terms of the applicable site plan approval but is a substantial change from the approved site plan, it shall require a revised site plan approval process and follow the applicable procedures for site plan approval contained herein.
- (3) If the City Planning Board determines that the proposed amendment is inconsistent with the terms of the site plan approval, it shall deny the amendment, and require a revised site plan approval process and follow the applicable procedures for site plan approval contained herein.

E. Expiration, Renewal, Revocation and Enforcement.

- (1) Expiration. A site plan approval shall expire if the applicant fails to obtain the necessary building permits or fails to comply with the conditions of the site plan approval within one year of its issuance or if the special permit with which it is associated expires.
- (2) Renewal. The City of Newburgh Planning Board may extend the time for application for a building permit, if, in its opinion, such action is warranted by the particular circumstances thereof, for a period not to exceed one year. Applications for such an extension/renewal must be received at least 45 days prior to expiration. The City Planning Board may grant up to two one-year renewals/extensions of the site plan approval at its discretion. In considering a site plan renewal, the City of Newburgh Planning Board shall evaluate whether any significant changes to the City of Newburgh's Master Plan or Code of the City of Newburgh have occurred since the issuance of the original approval. Should the City Planning Board determine that the site plan is substantially noncompliant with the City of Newburgh's Master Plan or Code of the City of Newburgh, the City Planning Board may deny the site plan renewal, and the applicant may file an amended site plan application. Site plans that have expired shall not be eligible for renewal.
- (3) A site plan approval may be revoked by the City Planning Board that approved it if the permittee violates the conditions of the site plan approval or engages in any construction or alteration not authorized by the site plan approval.

F. Violation. Any violation of the conditions of a site plan approval shall be deemed a violation of this chapter and shall be subject to enforcement action as provided herein.

ARTICLE __ – Special Use Permits

§ 300-__ . Purpose

- A. The City of Newburgh land use regulations are designed to allow a variety of uses of land, provided those uses do not adversely affect neighboring properties, the natural environment, or the character of the City. Therefore, to ensure that these uses are appropriate to their surroundings and consistent with the purposes of this chapter, some uses are permitted only upon issuance of a special permit by the City Planning Board.
- B. Accessory uses or structures used in connection with a special permit shall be subject to the same approval requirements as the principal structure or use.
- C. Considerations. On application and after public hearing notice, the City Planning Board may authorize by resolution, the issuance of a Special Use Permit only for those uses in a district where this chapter requires such a permit (include USE TABLE REFERENCE). In making its determination, the City Planning Board shall give consideration to any or all of the following as they may be appropriate:
 - (1) The special use requested is listed among the special uses in the zone for which application is made.
 - (2) Criteria for particular special use(s) as listed in Article _____ [Individual Special Use Permit Criteria], and Section § _____ FINDINGS of this chapter, as applicable.
 - (3) The special use is of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
 - (4) The special use will not impair the integrity or character of the zone or adjoining zones nor be detrimental to the public health, morals or welfare.
 - (5) The nature and condition of all adjacent structures and uses
 - (6) The special use is in conformity with adopted Planning and Policy Documents including, but not limited to:
 - (a) The City of Newburgh Master Plan
 - (b) The City of Newburgh Local Waterfront Revitalization Plan

§ 300-__ . Application and Procedures

- A. Preapplication meeting. Before filing an application, a preliminary conference with the Building Inspector is required to discuss the nature of the proposed use and to determine the information that will need to be submitted in the site plan.
- B. An application for a special use permit shall be submitted to the Building Inspector in accordance with the application submission deadlines as prescribed by the Building Inspector.
- C. Each application shall fully set forth the circumstances of the case. Every application shall refer to the specific provision of the chapter involved.
- D. Fee. All applications for Special Use Permit made to the City Planning Board shall be accompanied by the fee as provided for in § 300-____ (APPLICATION FEES).
- E. Application for a special use permit shall require site plan approval in accordance with the site plan regulations contained in this chapter. The City Planning Board may waive site plan approval for a special use permit application that will involve no physical alteration or disturbance to a site. At a minimum, the application for a special use permit shall be accompanied by a plan showing

the size and location of the lot, and the location of all buildings and proposed facilities, including access drives, parking areas, and all streets within 200 feet of the lot lines.

- F. If an application is for a parcel or parcels on which more than one use requiring a special permit is proposed, the applicant may submit a single application for all such uses. The City Planning Board may grant the application with respect to some proposed uses and not others. For purposes of determining SEQRA compliance, all proposed uses on a single parcel or on contiguous or related parcels under single or related ownership shall be considered together.
- G. Application for area variance. Notwithstanding any provision of law to the contrary, where a proposed special permit contains one or more features, which do not comply with the dimensional requirements of this chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to § 300-_____ AREA VARIANCES, without a decision or determination by the Building Inspector.
- H. State Environmental Quality Review Act (SEQRA) compliance. Upon receipt of application materials it deems complete, the City Planning Board shall initiate the New York State Environmental Quality Review process by either circulating the application and environmental assessment form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 20 days. Where the proposed action may have a significant effect on the environment, the City Planning Board shall issue a positive declaration and require the submission of a draft environmental impact statement (DEIS). No time periods for decision-making in this chapter shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation regulations or the issuance of a negative declaration.
- I. Referrals
 - (1) Orange County Department of Planning. Upon receipt of application materials it deems to be complete, the City Planning Board shall refer to the Orange County Department of Planning in accordance of Section 239m of the General Municipal Code, any application for a special permit affecting real property, which shall be accompanied by a full statement of the matter under consideration, as defined herein, within 500 feet of the boundary of:
 - (a) The City of Newburgh
 - (b) Any existing county or state park or other recreational area
 - (c) Any existing or proposed county or state roadway
 - (d) Any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines
 - (e) Any existing or proposed county- or state-owned land on which a public building or institution is situated.
 - (2) Conservation Advisory Council. The City Planning Board shall refer any special use permit application with the WPO to the Conservation Advisory Commission for review and recommendations. Such referral shall be done so as to allow the CAC at least 30 days to review and return comments.
 - (3) Architectural Review Commission. The City Planning Board may refer any special use permit application within historic districts or architectural design districts to the Architectural Review Commission for review and recommendations. Such referral shall be done so as to allow the ARC at least 30 days to review the application and return comments.
- J. Notice and hearing.
 - (1) The City Planning Board shall hold a public hearing on a complete special permit application within 62 days of its submission.

- (2) At least 10 days prior to such hearing the Secretary of the Board shall mail, by regular mail, at the applicant's expense, a notice of such hearing and of the substance of the application to the owners of all properties within 300 feet of the exterior boundaries of the property affected by the application.
- (3) At least 10 days prior to such hearing, the Secretary of the City Planning Board, at the expense of the applicant, to be paid in advance, shall cause to be published in the official newspaper of the City a notice of such hearing and of the substance of the appeal or application.
- (4) Prior to said hearing, the applicant shall submit to the Board affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application.
- (5) For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.
- (6) The applicant shall also be required to post a notice on a sign purchased from the City Clerk stating that there is a pending application on the property, and providing the date, time, and place of the hearing, the place and times the application may be reviewed by the public, and a telephone number to call for further information. This sign shall be posted in public view in a conspicuous location within three days after the City Planning Board establishes a public hearing date, shall be updated if more hearing dates are scheduled, and shall remain in place until the day after the hearing is closed.

K. Action

- (1) The City Planning Board shall approve, approve with modifications and/or conditions, or deny any application for a special permit within 62 days after the hearing. The time within which the City Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. Any decision shall contain written findings explaining the rationale for the decision in light of the standards contained in § 300-____ below.
- (2) The special permit and accompanying site plan shall be implemented as provided in § ____ IMPLEMENTATION, REVISION AND ENFORCEMENT OF APPROVED SITE PLANS.
- (3) Conditions. The City Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit and may be necessary in the Board's opinion to meet the objectives herein set forth. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City. These conditions may include:
 - (a) A time limitation on the applicability of the Special Use Permit
 - (b) Imposing operating conditions including, for example, hours of operation
 - (c) Increasing dimensional or area requirements
 - (d) Requiring the set-aside of perpetual open space land pursuant to § _____, CONSERVATION DISTRICT OVERLAY
 - (e) Specifying location, character and number of vehicle access points
 - (f) Requiring landscaping, planting and screening
 - (g) Requiring clustering of structures and uses in order to preserve environmental resources and minimize the burden on public services and facilities

- (h) Requiring action by the applicant, including the posting of performance bonds and furnishing of guaranties to ensure the completion of the project in accordance with the conditions imposed.
- (i) Requiring the registering of an easement
- (j) The installation of storm water management controls
- (k) Referrals.

[1] Orange County Department of Planning.

[a] No action shall be taken on applications referred to the Orange County Department of Planning until its recommendation has been received or 30 days have elapsed after its receipt of the complete application, unless the county and city agree to an extension beyond the thirty-day requirement for the Orange County Department of Planning Department's review

[b] County disapproval. A majority-plus-one vote of the City Planning Board shall be required to grant any special permit which receives a recommendation of disapproval from the Orange County Department of Planning. The City Planning Board shall by resolution set forth its reasons for such contrary action.

[2] Architectural Review Commission and Conservation Advisory Council

[3] Where the City Planning Board has referred the application for a Special Use Permit to the ARC and/or CAC for its advisory opinion, prior to making its determination, the City Planning Board shall consider the recommendation of the ARC and/or CAC with reference to the consistency of the proposed action. In the event that the ARC and/or CAC recommendation is not forthcoming within 30 days following referral of the CAF, the City Planning Board shall make its determination without the benefit of the ARC and/or CAC recommendation.

[4] If the City Planning Board receives comments/recommendation from the ARC and/or CAC and determines to proceed contrary to this recommendation, the City Planning Board shall include in its Findings, the reasons set forth for such contrary action.

- (4) No special use permit shall be issued for property where the Building Inspector has found a violation of this chapter, and where such violation has not been corrected, unless the granting of such special use permit and site plan approval will result in a correction of said violation.
- (5) Filing. The decision of the City Planning Board shall be filed in the office of the City Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant.

L. Enforcement, Renewal and Amendment, Expiration and Revocation

(1) Enforcement.

- (a) The City Planning Board may establish a schedule of inspection to be conducted by the Building Inspector to determine continued compliance with this chapter and any conditions of the special use permit.
- (b) In any case where the conditions of a special use permit have not been or are not being complied with, the Building Inspector shall give the permittee notice of intention to revoke such permit at least 10 days prior to a City Planning Board review thereon. After conclusion of the review, the City Planning Board may authorize the Building Inspector to revoke such permit.

- (c) Granting of a special use permit does not exempt the applicant from complying with all of the requirements of building codes and other ordinances.
- (2) Renewal and Amendment
- (a) Renewal. Where a Special Permit has been granted, but the applicant has failed to obtain the necessary building permits or fails to comply with the conditions of the special permit within 12 months of its issuance, the City Planning Board may grant one (1) six month extension, provided the applicant submits a written request to the City Planning Board detailing the circumstances that have prevented the applicant from pursuing. This renewal application must be submitted to the City Planning Board no less than 60 days prior to its expiration.
- (b) Amendment. The terms and conditions of any special permit may be amended in the same manner as required for the issuance of a special permit, following the criteria and procedures in this article. Any enlargement, alteration, or construction of accessory structures not previously approved shall require site plan review only, provided that the use does not change.
- (3) Expiration. A special permit shall expire if the special permit use or uses cease for more than 24 consecutive months for any reason or if the applicant fails to obtain the necessary building permits or fails to comply with the conditions of the special permit within 12 months of its issuance without renewal.
- (4) Revocation. Any violation of the conditions of a special permit shall be deemed a violation of this chapter and shall be subject to enforcement action as provided in § _____. Enforcement. A special permit may be revoked by the City Planning Board if the permittee violates the conditions of the special permit or engages in any construction or alteration not authorized by the special permit.

§ 300-__ Standards for Individual Special Uses

In addition to the other criteria in this Chapter, the following individual special uses shall meet the criteria below.

- A. Home Occupation or Professional Home-Based Office: Home occupations are deemed to be accessory uses and are permitted within a single-dwelling unit, or in a building or other structure accessory to a dwelling unit, and only by the person or persons maintaining their primary residence in said dwelling unit, subject to the requirements contained herein. For the purposes of this section, “primary residence” is defined as the location of an individual’s residence for more than six months of the year. A home occupation shall not require full site development plan submission. However, an applicant shall be required to submit a lot survey indicating the location and size of the home or accessory building and the area of the home or accessory building to be used for purposes of the home occupation.
- (1) The minimum lot size shall be that specified for the Zoning District.
- (2) Extent of Use. Such occupation is carried on in an area not exceeding 25% of the gross floor area of the principal building.
- (3) At no time shall any premises be used in such a manner to cause the emanation therefrom of offensive or noxious odors, vapors, fumes, glare, dust, smoke, gas, vibration, noise or radiation or be used in such a manner as to cause injury, annoyance or disturbance to any of the surrounding properties and to their owners and occupants.
- (4) Mechanical and Electrical Equipment. Mechanical or electrical equipment capable of producing noise, electrical or magnetic interference with radio or television reception in the neighborhood shall be prohibited unless also equipped with means to prevent such interference.

- (5) Outdoor Storage. There shall be no outdoor storage of materials, supplies, or equipment associated with the home occupation.
 - (6) Employees on Site. No more than two paid or non-paid employees or assistants in addition to the home occupant may be engaged on the premises of the home occupation at any given time.
 - (7) Permitted Uses. It shall include not more than one of the following uses, provided that such uses are clearly incidental and secondary to the use of the dwelling unit for residential purposes:
 - (a) Custom dressmaking
 - (b) Art/music/dance instruction for not more than nine students simultaneously. Concerts or recitals are prohibited.
 - (c) Professional office of engineer, architect, lawyer, insurance, real estate, accounting, or similar customary home office based professions
 - (d) Photography, using home scale equipment
 - (e) Other uses consistent with the scope and intent of this section as determined and approved by the approving agency
 - (8) Materials Delivery. The size, frequency, and duration of deliveries for the home occupation must be in keeping with the character of the zoning district and surrounding land uses.
 - (9) The City Planning Board may approve the operation of a home occupation subject to any condition it deems necessary to ensure that the use does not diminish or impact the peace, security and the overall residential quality of the neighborhood. This includes the provision of necessary off-street parking, if required.
 - (10) Evidence of use. The home occupation shall not display or create outside the building any evidence of the home occupation, except that one unanimated, non-illuminated flat wall or window sign, having an area of not more than six square feet, shall be permitted on each lot on which the building is situated, such sign to be in conformance with Chapter 250 of the Code of the City of Newburgh.
 - (11) Commercial Vehicle Parking. Not more than one commercial vehicle shall be permitted in connection with any home occupation and shall be stored in an enclosed garage, or otherwise screened from the street.
 - (12) Alterations. No alteration of the principal residential building shall be made which alters the residential character of the building.
- B. The standards for a Child Day Care Center shall be as follows:
- (1) The Special Permit application shall describe the anticipated occupancy of the facility by age group, i.e., infant, toddler, and school age, and the hours of operation of the facility, parking and circulation plan, New York State Department of Social Services application and license, and other information required to understand the operation.
 - (2) A floor plan of the day-care center shall be submitted.
 - (3) In addition to the parking space requirements contained in the Use and Bulk Tables additional parking spaces shall be provided for dropoff and pickup of children at a rate of one parking space per 15 children. Said spaces shall be provided directly in front of the facility along an internal driveway or in an approved parking area. The most appropriate location for dropoff parking shall include a consideration of emergency access and shall be determined by the City Planning Board during site plan review. The dropoff location shall be clearly posted with appropriate signage or pavement markings. Fire lanes shall not be used for dropoff areas.

- (4) Outdoor play areas shall be located at a minimum distance of 25 feet from any lot line or from any parking area and 25 feet from any public right-of-way and fenced in for safety see 300- C (5). Outdoor play areas shall be directly accessible from the principal structure and shall not require crossing any street, driveway, or parking area for access. The City Planning Board may, as part of site plan review and in consultation with the prospective operator, modify the area requirement to apply only to the largest age group
 - (5) A six-foot-high solid fence or opaque fence combined with hedge or tree plantings shall be provided to screen the outdoor play area where it abuts a residential zoning district.
 - (6) Said facility shall provide a minimum of two marked exits.
 - (7) Day-care centers shall adhere to the requirements of the New York State Uniform Fire Prevention and Building Code and all other applicable state guidelines that govern said uses.
- C. Bed-and-breakfasts: Bed-and-breakfasts shall be subject to the following:
- (1) Applicability: A bed-and-breakfast is permitted only within a single-family residence. Except as otherwise specified herein, the single-family residence shall be required to meet the bulk requirements for single-family residences within the applicable zoning district.
 - (2) Application submission: In addition to the general requirements for special use permit approval, the applicant shall also submit:
 - (a) A sketch showing the floor plan of the home and the location of proposed guest rooms.
 - (b) A site survey and site plan delineating the location of the residence on the tax parcel, minimum setback distances, proposed parking areas, proposed screening, and any other information applicable.
 - (c) The bed and breakfast shall be permitted one unanimated, non-illuminated flat wall or window sign, having an area of not more than six square feet on each lot on which the building is situated, such sign to be in conformance with Chapter 250 of the Code of the City of Newburgh.
 - (d) A certification that the owner resides and will continue to reside within the residence while the special use permit is in effect. A change in owner occupancy shall require renewal of the special use permit.
 - (e) Proof of insurance to operate a bed-and-breakfast.
 - (3) Requirements and conditions of operation:
 - (a) The bed-and-breakfast shall be the primary residence of the owner.
 - (b) No guest shall stay for a period exceeding 15 days. The bed-and-breakfast shall maintain a guest registry identifying the arrival and departure dates of guests.
 - (c) A maximum of two adult guests and accompanying minor children shall be allowed to occupy each guest bedroom, subject to fire safety standards providing there are adequate sleeping accommodations.
 - (d) Said rooms shall not be equipped with a kitchenette or other cooking devices.
 - (e) As a minimum, one bathroom shall be provided for each two guest rooms. In addition, a separate bathroom shall be maintained for the owners of the single-family residence.
 - (f) Each guest bedroom shall be equipped with a smoke detector alarm and carbon monoxide alarm installed and maintained in a functional condition on or near the ceiling.
 - (g) No parking space shall be located within the front yard. Parking spaces shall be set back a minimum distance of 15 feet from any side or rear lot line. A minimum of two spaces shall be provided for the single-family dwelling, plus a minimum of one off-street

parking space shall be provided for each guest bedroom. New parking areas required to meet these requirements shall limit the introduction of impervious surfaces.

- (h) Landscaping within the required side and rear yard setbacks shall be provided to screen adjacent residential uses.
 - (i) The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character, nor shall any extensions or additions to the dwelling be made for the purpose of renting such space for overnight accommodations. Accessory buildings detached from the principal dwelling shall not be used for the purpose of a bed-and-breakfast.
 - (j) There shall be no more than two full-time employees in addition to the owner and their immediate family.
 - (k) Each facility shall be operated and maintained so as to preserve the character and integrity of the surrounding residential neighborhood.
 - (l) Outdoor Storage. There shall be no outdoor storage of materials, supplies, or equipment associated with the Bed and Breakfast.
 - (m) Materials Delivery. The size, frequency, and duration of deliveries for the Bed and Breakfast must be in keeping with the character of the zoning district and surrounding land uses.
 - (n) Bed and Breakfasts in a residential district shall not provide a public dining facility or a public bar.
- (4) Registry: The City Planning Board Secretary shall maintain a record of bed-and-breakfasts, including the name of the owner, the address, the maximum occupancy of the establishment, and the date of special use permit approval.

D. Residential Care Facilities and Boarding Homes shall be subject to the following:

- (1) Up to three non-transient residents may be accommodated in addition to the resident owner, or director.
- (2) Kitchen and dining facilities shall be limited to use by the residents and bona fide guests but shall not be open to the general public. There shall be no individual kitchen or dining facilities for any sleeping room.
- (3) Each sleeping room for rent shall be at least 100 square feet in area.
- (4) One off-street parking space shall be provided for each rented sleeping room. The City Planning Board can waive this requirement if sufficient on-street parking exists within 500 feet of the lot on which the use is located.
- (5) In order to preserve the residential character of the neighborhood, there shall be no exterior alteration or expansion of the structure to allow the use of the dwelling for boarders and roomers, except for parking.

E. Gasoline Station, Automobile Service/Repair, Automobile Sales, Boat Repair

- (1) Notwithstanding any grant of authority contained elsewhere in this chapter, no special permit or variance shall be granted for a use enumerated herein to be located within a designed historic district or architectural design district unless the Architectural Review Commission shall certify to the City Planning Board that said use will not be out of keeping with the architectural character of the district and will not be out of harmony with the style, materials, colors, line and details of the buildings in the district and that said use will not detrimentally affect the preservation of the beauty and character of the district.
 - (a) The City Planning Board will refer any applicable Special Permit requests to the Architectural Review Board within 5 days of receipt of a complete application.

- (b) The Architectural Review Board must return its findings to the City Planning Board no later than 5 days after the second regularly scheduled meeting following receipt of the referral.
 - (c) If the Architectural Review Board does not submit its findings in the time limit contained in (b), it shall be deemed that it has no objection to the use.
 - (2) Sufficient off-street parking is to be provided for all vehicles brought in for repair.
 - (3) Junk vehicles shall not be stored on the property.
 - (4) Discharges of oil, grease, or other petroleum products in the public sewers, stormwater systems, or waterways must be in conformance with the New York State Uniform Fire Prevention and Building code, federal, state, and local environmental and sewer use regulations and ordinances.
 - (5) A dust control plan and stormwater drainage plan must be approved by the City Planning Board.
 - (6) All lighting is to be installed in accordance with a plan to be submitted and approved by the City Engineer and the Building Inspector and so designed as to prevent light from spilling onto the ground of adjacent properties.
 - (7) Landscaping must be provided to screen adjacent residential uses.
- F. Adult Day Care Center
- (1) The Special Permit application shall describe the anticipated occupancy of the facility and the hours of operation of the facility, parking and circulation plan, any applicable licensing requirements, and other information required to understand the operation.
 - (2) A floor plan of the day-care center shall be submitted.
 - (3) In addition to the parking space requirements contained in xxx, additional parking spaces shall be provided for dropoff and pickup of clients at a rate of one parking space per 15 clients. Said spaces shall be provided directly in front of the facility along an internal driveway or in an approved parking area. The most appropriate location for dropoff parking shall include a consideration of emergency access and shall be determined by the City Planning Board during site plan review. The dropoff location shall be clearly posted with appropriate signage or pavement markings. Fire lanes shall not be used for dropoff areas.
 - (4) Outdoor recreation areas shall be located at a minimum distance of 25 feet from any lot line or from any parking area and 25 feet from any public right-of-way and fenced in for safety see 300- C (5). Outdoor recreation areas shall be directly accessible from the principal structure and shall not require crossing any street, driveway, or parking area for access.
 - (5) A six-foot-high solid fence or opaque fence combined with hedge or tree plantings shall be provided to screen the outdoor play area where it abuts a residential zoning district.
 - (6) Said facility shall provide a minimum of two marked exits.
 - (7) Day-care centers shall adhere to the requirements of the New York State Uniform Fire Prevention and Building Code and all other applicable state guidelines that govern said uses.
- G. Drive-Thru Establishments and Automobile Washes
- (1) A traffic queuing analysis must be submitted that demonstrates that there will be no queuing on public streets or rights of way and that all sidewalk areas will be kept clear of standing vehicles.
 - (2) In the case of Automobile Washes, a water management plan, including water recycling, shall be submitted and approved by the City Planning Board, which plan limits, to the extent

practicable, the amount of potable water used at the facility and demonstrates that the facility will adequately capture all runoff from the facility on-Site.

H. Shopping Center

- (1) The Site shall be planned and developed subject to a coordinated plan.
- (2) The Site and structures shall reflect the existing community character and incorporate existing building facades to the extent possible.
- (3) The Shopping Center shall encourage pedestrian usage, not require outside storage, and has no light spillage onto adjacent properties.
- (4) The required off-street parking shall be based upon section xx of this chapter.

I. Cottage Industry

- (1) Adequate landscaping and/or screening must be provided around any outdoor storage areas.
- (2) Delivery hours shall be regulated by the special use permit.
- (3) Any potentially unique adverse impacts of the use, owing to the nature of the use, must be described in the special permit application and measures to mitigate such impacts must be provided.

J. Dry Cleaner / Commercial Laundry

- (1) Applicants must provide copies all applicable New York State and Federal permits required for operation.
- (2) A chemical storage plan must be submitted detailing the nature, amount, and method for storing all liquid and solid chemicals on the premises. The plan must detail the features that guard against the possible release of chemicals into the air, sewer system, ground, or water.

K. Cabaret

- (1) A building safety and evacuation plan must be submitted to, and approved by, the City Planning Board and Building Inspector.
- (2) Adequate parking, either on- or off-street must be identified
- (3) Noise attenuation must be provided when, in the opinion of the City Planning Board, based on the proximity of the cabaret use to residential uses or the nature of the planned cabaret use, such attenuation will be needed to provide for the safe enjoyment of nearby residential users or other property owners.

§ 300-__ . Findings

- A. In granting or denying special permits, the City Planning Board shall take into consideration the scale of the proposed project, the possible impact of the proposed project on the adjacent properties and uses, and that such proposed special permit use does not interfere with or diminish the value of adjoining property. The City Planning Board shall also take account of any conditions imposed that would mitigate potential adverse impacts and preserve or enhance the character of the City of Newburgh. No special permit shall be granted for any property on which there exists a violation of this chapter, including a violation of any condition of a previous municipal approval, unless the City Planning Board finds that the applicant has no legal right or ability to remedy the violation or that the grant of a special permit is necessary to remedy a condition that poses a risk to public health or safety.
- B. Criteria. Before granting or denying a special permit, the City Planning Board shall make specific written findings establishing whether or not the proposed project:

- (1) Will comply with all land use district, overlay district, and other specific requirements of this chapter and other local laws and regulations and will be consistent with the purposes of this chapter and of the land use district in which it is located.
- (2) Will comply with the applicable criteria in § 300-x INDIVIDUAL SPECIAL USES.
- (3) Will not result in excessive off-premises noise, dust, odors, solid waste, or glare or create any public or private nuisances.
- (4) Will not cause significant traffic congestion, impair pedestrian safety, or overload existing roads, considering their current width, surfacing, and condition, and any improvements proposed to be made to them by the applicant.
- (5) Will be accessible to fire, police, and other emergency vehicles.
- (6) Will not overload any public water, drainage, or sewer system, or any other municipal facility.
- (7) Will not materially degrade any watercourse or other natural resource or ecosystem or endanger the water quality of an aquifer.
- (8) Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.
- (9) Will be subject to such conditions on operation, design and layout of structures, and provision of buffer areas as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the City.
- (10) Will be consistent with the goal of buffering nonresidential uses that are incompatible with residential use.
- (11) Will comply with applicable site plan criteria in § 300____SITE PLAN CRITERIA.
- (12) If the property is in a residential district, will have no greater overall off-site impact than would full development of the property with uses permitted by right, considering relevant environmental, social, and economic impacts.

ARTICLE __ – ZONING BOARD OF APPEALS

§ 300-__ . Purpose and Establishment

- A. The purpose and intent of this article is to provide a body, The Zoning Board of Appeals (ZBA), to which may be referred appeals from the enforcement of this chapter based upon alleged uncertainty in the text, error in administrative decisions or unique hardship.
- B. The Zoning Board of Appeals is not established as a means of altering this chapter, the intent of this chapter or the purpose of this chapter. It shall not permit any use in any zone which would be in conflict with such zone under the terms of this chapter or which, in effect, would constitute a change in zoning.
- C. The Zoning Board of Appeals shall have all the powers and duties prescribed by law and this chapter in connection with appeals to review any order, requirement, decision, interpretation, or determination made by an administrative official charged with the enforcement of this chapter, generally the Building Inspector. An appeal may be taken by any person aggrieved or by any officer, department, board, or committee of the City.

§ 300-__ . Continuation, appointment and organization; alternate members

- A. The Zoning Board of Appeals, as constituted at the time of the enactment of this chapter, shall continue in existence in accordance with the provisions of the General City Law applicable thereto.
- B. The ZBA shall consist of seven members. The term of office of each member shall be seven years, and his term shall continue until a successor shall be appointed. If a vacancy shall occur other than by expiration of the term, it shall be filled by appointment of the City Manager for the unexpired term.
 - (1) Chairperson. One member shall be designated by the City Manager to act as Chairperson, or, on the failure to do so, the ZBA shall elect a Chairman from its own members. The City Manager shall appoint a Secretary and shall prescribe rules for the conduct of its affairs in accordance with the provisions included in this Chapter and all applicable State regulations.
- C. Alternate Member. Two alternate members of the Zoning Board of Appeals shall be appointed by the City Manager for a term of two years, commencing on the date of appointment. These members shall serve when members are absent or unable to participate on an application before the Zoning Board of Appeals.
 - (1) The Chairman of the Zoning Board of Appeals may designate one of the appointed alternate members as an alternate substitute for a member when such member is unable to participate on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of every Zoning Board of Appeals meeting at which the substitution is made.
- D. All provisions of state law and local law, codes, rules and regulations relating to Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of any local law or local ordinance relating to training, continuing education, compensation and attendance, performance of duties, qualifications and others, shall also apply to alternate members.

§ 300-__ . General Powers and Duties

- A. The Zoning Board of Appeals shall have all the powers and duties prescribed by law and this chapter, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law.

- B. Appeals of orders, requirements, decisions, interpretations or determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation, or determination appealed and shall make such order, requirement, decision, interpretation, or determination, that in the opinion of the ZBA ought to have been made in the matter by the City of Newburgh Building Inspector or other administrative official charged with the enforcement of this chapter.
- C. Power to interpret chapter: On appeal from an order, requirement, decision or determination made by an administrative official or on request by any official, board or agency of the City, the Zoning Board of Appeals shall have the power to decide any of the following matters:
 - (1) Text: Determination of the meaning of any portion of the text of this chapter.
 - (2) Map: Determination of the exact location of any zoning boundaries shown on the Zoning Map.
 - (3) Variances: granting of use or area variances, as defined herein.

§ 300-__ . Appeals for Variance

- A. The Zoning Board of Appeals shall have the power, upon appeal of a determination by the Building Inspector, and after public notice and hearing, to vary or modify the application of any provisions of this chapter relating to use, construction, or alteration of structures or the use of land, so that the spirit of this chapter is observed, public safety and welfare secured and substantial justice is done.
- B. Variation from the strict enforcement of the terms of this chapter may only occur where the literal enforcement of the requirements of this chapter would involve practical difficulties or would cause undue hardships that would deprive the owner of the reasonable use of the land or buildings involved and would not carry out the spirit and purpose of this chapter. Such a request shall be termed a ‘variance’.
- C. An applicant for a variance must demonstrate that a substantial and unique hardship would be created by the strict interpretation of the provisions of this chapter and this hardship can be corrected by a variation in the regulations without causing undue hardship to others or to the City as a whole. The basis for this action is hardship on the individual rather than benefit to the public.

§ 300-__ . Uses Variance and Area Variances

- A. Use Variances.
 - (1) The ZBA, on appeal from a decision or determination from the Building Inspector, shall have the power to grant use variances, authorizing the use of the land, which otherwise would not be allowed by this chapter.
 - (2) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship.
 - (a) In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - [1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - [2] The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the neighborhood;
 - [3] The requested use variance, if granted, will not alter the essential character of the neighborhood; and

- [4] The alleged hardship has not been self-created.
- (3) Minimum Variance. The Zoning Board of Appeals, in granting use variances, shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.
- (4) In addition to the grounds for granting a use variance in Subsection § 300-____ B. (1) above, a use variance may also be granted if the applicant can prove, by competent financial evidence, deprivation of all economically beneficial use of the property. In such a case, the Zoning Board of Appeals shall grant only the minimum variance necessary to allow an economically beneficial use.
- (5) If the use variance is granted for a nonresidential use, the applicant shall obtain site plan approval from the City Planning Board prior to commencing the use or obtaining a building permit.
- B. Area Variances. The ZBA shall have the power, upon an appeal from a decision or determination of the Building Inspector, to grant area variances from the area or dimensional requirements specified in this Chapter.
- (1) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it deems necessary and adequate while preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community
- (2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider whether:
- (a) 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;
- (b) The benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
- (c) The requested area variance is substantial;
- (d) The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (e) The alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.
- C. Ineligible hardship: The following types of cases shall not be construed as eligible for consideration as hardship cases within the meaning of this chapter:
- (1) The applicant, with or without knowledge of the provisions of this chapter, has acquired the site subsequent to the adoption date of this chapter.
- (2) The applicant has caused a self-imposed hardship by changing his circumstances after adoption of the chapter. (Example: The applicant in selling a portion of a larger site has either created a new lot which is deficient in total area or has rendered the existing larger segment on which the structure is located insufficient in yard space.)
- (3) The applicant would realize financial advantage from a change to the site, the structure or the use.
- D. Transference: Unless otherwise specified at the time the variance is granted, the variance pertains to the subject property and not to the individual who applied. Consequently, the variance is

transferable to any future owner of the subject property but cannot be transferred by the applicant to a different site should said applicant move to another location.

- E. Expiration: Unless otherwise specified at the time the variance is granted, it pertains to the subject property for an indefinite time. However, in the case where work has not been commenced and diligently prosecuted within one year after the date of granting of a variance, then without further action such variances shall become null and void.
- F. Imposition of conditions and safeguards: The Zoning Board of Appeals shall, in the granting of both use and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- G. Referral to City Planning Board: Where the Zoning Board of Appeals finds the zoning classification of a particular property to be conducive to the deprivation of all reasonable use of the land or building by the owner thereof and where such Board deems the same condition to apply generally to other land or buildings in the same neighborhood or zone said Board shall deny a variance on the grounds that the conditions and circumstances are not unique and shall call this condition to the attention of the City Planning Board accompanied by a recommendation that this chapter be amended.

§ 300-__ . Procedures

- A. Contents of the Application. Appeals shall be submitted by filing a written notice of appeal to the Building Inspector and Zoning Board of Appeals within 90 days after the filing in the City Clerk's office of the order, requirement, decision, interpretation, or determination of the administrative official charged with the enforcement of such ordinance or local law by filing with such administrative official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought.
- B. Applications for appeals shall be filed on forms required by the ZBA. Such application shall refer to the specific relevant provisions of this Chapter and shall specify the grounds for the variance requested, the interpretation claimed, or for the reversal of an order, requirement, decision, or determination by the Building Inspector. The Building Inspector shall transmit all the papers constituting the record of the appeal to the Zoning Board of Appeals. In addition to these required materials, the application shall include as necessary:
 - (1) A plot plan drawn to scale with accurate dimensions, showing the location of all existing and proposed structures on the lot
 - (2) A site context map showing the zoning of the parcel in question as well as the zoning of all adjacent properties
 - (3) Complete copies of the required application materials in the number and format prescribed by the Building Inspector.
 - (4) Fees: All appeals or requests for a variance made to the Zoning Board of Appeals shall be accompanied by the fee established in Section _____ of this Chapter, ESCROW.
- C. Referrals
 - (1) Orange County Department of Planning
 - (a) Requests for variances that require referral to the Orange County Department of Planning shall be so referred pursuant to the General Municipal Law, Article 12-B, §§ 239-1 and 239-m, as amended. The referral shall be accompanied by a full statement of such proposed action, and any materials and of forms required by the Orange County Department of Planning.

- (b) No action shall be taken on variances referred to the Orange County Department of Planning until its recommendation has been received or 30 days have elapsed after its receipt of the full statement of the proposed variance, unless the Orange County Department of Planning and City of Newburgh Zoning Board of Appeals agree to an extension beyond the thirty-day requirement for the Orange County Planning Department's review.
- (c) County disapproval. A majority-plus-one vote shall be required to approve any variance, which receives a recommendation of disapproval from the Orange County Department of Planning because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.
- (2) Planning Board Advisory Opinion: The Zoning Board of Appeals is not required to but may, in its discretion, refer any requests for appeals or applications for variances to the City Planning Board for review and recommendations. If no report is received from the City Planning Board within 30 days, the Zoning Board of Appeals may render its decision without said report.
- (3) Conservation Advisory Council. Whenever a request for appeal or application for variance involves the City's waterfront area, the Zoning Board of Appeals shall determine the consistency of the proposed action as set forth in Chapter 159-5 of the Code of the City of Newburgh, known as the "City of Newburgh Waterfront Consistency Review Law." The Zoning Board of Appeals shall refer a copy of a completed coastal assessment form (CAF) and other appropriate application materials to the Conservation Advisory Council within 10 days of its submission and, prior to making its determination, shall consider the recommendation of the CAC with reference to the consistency of the proposed action. In the event that the CAC recommendation is not forthcoming within 30 days following referral of the CAF, the Zoning Board of Appeals shall make its determination without the benefit of the CAC recommendation.

D. Hearing and Public Notice

- (1) The Zoning Board of Appeals shall set a reasonable time after receipt of a complete application for the hearing of appeals and the Applicant shall be notified of the date.
- (2) The Secretary of the Zoning Board of Appeals shall refer all applications for use variances to the City Planning Board for a report prior to the public hearing. If the City Planning Board does not report within 30 days of such referral, the Zoning Board of Appeals may take action without the City Planning Board's report.
- (3) At least 10 days prior to the date of the hearing of appeals, the Secretary of the ZBA shall mail, by certified mail, at the Applicant's expense, a notice of such hearing and of the substance and appeal to adjacent property owners affected by the appeal, provided that no such mailing or proof of mailing shall be required where the application is for an area variance of less than three feet in regard to any front, rear or side yard setback. For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.
- (4) At least 10 days prior to the date of the hearing of appeals, the Secretary of the ZBA, at the expense of the Applicant, to be paid in advance, shall give public notice by causing the publication of a notice of such hearing and the substance of the appeal, in the official newspaper of the City of Newburgh.
- (5) Prior to the public hearing, the applicant shall submit to the ZBA affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application.
- (6) At the hearing, any party may appear in person or by agent or by attorney.

- (7) The Zoning Board of Appeals may adjourn the hearing for a reasonable period in order to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in the appeal.
- E. Action. The Zoning Board of Appeals may, in conformity with the provisions of this chapter, reverse, affirm, or modify, wholly or in part, the order, requirement, decision, interpretation or determination of the administrative official in accordance with the provisions of this chapter.
- (1) Any such action shall be decided within 62 days after the close of the hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
- (2) Every decision of the Zoning Board of Appeals shall be approved by the affirmative vote of a majority of all the members by resolution which contains a full record of the findings of the Zoning Board of Appeals in the case. If the Zoning Board of Appeals acts contrary to the recommendations of the City Planning Board or the County Planning Board, it shall give written reasons for such action
- F. Filing of Decision or Action: Every order, requirement, decision, interpretation, or determination of the Zoning Board of Appeals shall be filed in the office of the City Clerk within five business days after the day such decision is rendered and shall be a public record. A copy thereof shall be mailed to the applicant within the same five day period.
- G. Court review of Board decisions. Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law.
- H. Expiration of appeal decision. Unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the appellant fails to obtain any necessary building permit within 12 months of the date of such decision.
- I. Stay of Proceedings: An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed, that such a stay of proceedings would, in the Building Inspector's opinion, by reason of facts stated in the certificate, would cause imminent peril to life or property. In such a case, proceedings shall not be stayed except by a restraining order, which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Building Inspector for due cause shown.
- J. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the Board within 62 days of the original decision. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the Board may reverse, modify, or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board 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.

ARTICLE __ – ENFORCEMENT, SEVERABILITY, WHEN EFFECTIVE

§ 300-__ . Violations and Enforcement; Penalties for Offenses

- A. Inspection. To determine compliance with this Chapter, and in accordance with the provisions of the Uniform Fire Prevention and Building Code, and the Code of the City of Newburgh, the Building Inspector or any duly authorized City representative, upon showing the proper credentials in the discharge of his/her duties, may enter upon any building, structure or premises at any reasonable hour or in an emergency at any hour whatsoever upon the consent of the owner or occupant or pursuant to a lawful warrant.
- B. Notice of Violation
- (1) Upon finding any new construction, improvements, or uses to be in violation of this Chapter, the Building Inspector shall transmit a written notice of violation, by registered or certified mail, to the owner and tenants of the property upon which the alleged violation occurs, describing the alleged violation. The notice of violation shall require an answer or correction of the alleged violation to the satisfaction of the Building Inspector within a reasonable time limit set by the Building Inspector. The notice shall state that failure to reply or to correct the alleged violation to the satisfaction of Building Inspector within the time limit constitutes admission of a violation of this Chapter. The notice shall further state that, upon request of those to whom it is directed, technical determinations of the nature and extent of the violation as alleged will be made and that if a violation as alleged is found, costs of the determinations will be charged against those responsible, in addition to such other penalties as may be appropriate, and that if it is determined that no violation exists, costs of determination will be borne by the City.
 - (2) If, within the time limit set, there is no reply but the alleged violation is corrected to the satisfaction of the Building Inspector, the notation "Violation Corrected" shall be made on the Building Inspector copy of the notice.
 - (3) If there is no reply within the time limit set (thus establishing admission of a violation of this Chapter) and the alleged violation is not corrected to the satisfaction of the Building Inspector within the time limit set, the Building Inspector shall take action in accordance with § _____ C "Abatement of Violations" of this Chapter.
 - (4) A permanent record of all notices of violation and their disposition shall be kept in the offices of the Building Inspector.
- C. Abatement of violations. The Building Inspector may issue a stop-work or cease and desist order and/or institute an appropriate legal action or proceeding to prevent, restrain, correct, or abate any violation of this Chapter to prevent the occupancy of premises or to prevent any activity, business, or use that violates this Chapter. Such legal action may include the issuance of an appearance ticket pursuant to the Criminal Procedure Law, §150.20(3).
- D. Penalties.
- (1) A violation of this Chapter is an offense punishable by fine not exceeding \$250 or imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense. Conviction of a second offense, committed within five years of the first offense, is punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both. Conviction of a third or subsequent offense committed within a period of five years is punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both. Each day's continued violation shall constitute a separate additional violation. A violation which creates an imminent hazard to health and safety shall be punishable by the same fine as above, as well as by imprisonment for a period not to exceed six months per violation.

- (2) In addition, any person who violates any provision of this Chapter or who fails to do any act required thereby shall, for each and every such violation, pay a civil penalty of not more than \$100. When a violation of any of the provisions is continuous, each day thereof shall constitute a separate and distinct violation subjecting the offender to an additional penalty.
- (3) The imposition of penalties for any violation of this Chapter shall not excuse the violation nor permit to continue. The application of the above penalties or prosecution for a violation of any provision of this Chapter shall not prevent the abatement of a violation pursuant to Subsection C, “Abatement of Violations”. The expenses of the City in enforcing such removal, including legal fees, may be chargeable (in addition to the criminal and civil penalties) to the offender and may be recovered in a civil court of appropriate jurisdiction.
- E. Complaints of violations. Whenever a suspected violation of this Chapter occurs, any person may file a signed written complaint reporting such violation to the Building Inspector. The Building Inspector may also investigate any oral complaint made to his/her office. All complaints, written or oral, shall be properly recorded, filed, and promptly investigated by the Building Inspector.
- F. Accountability. For every violation of the provisions of this Chapter, the owner, agent, contractor, lessee, ground lessee, tenant, licensee, or any other person who commits, takes part, or assists in such violation or who maintains any structures or premises in which any such violation exists shall be punishable according to the provisions of this Chapter.
- G. Existing Violations. No application shall be received nor shall any application, if received, be reviewed or be granted for any variance, zoning change, special use permit, site plan, subdivision, building permit, license, certificate of occupancy or any other change set forth in this chapter if there are any existing violations of this chapter for the lot or lots contained in said application, unless said application is required by the Building Inspector, City of Newburgh Corporation Counsel, or the reviewing agency in settlement of the outstanding violation.

§ 300-__ . Severability

- A. If any clause, sentence, paragraph, subdivision, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.
- B. It is hereby declared to be the intent of the City Council that this chapter would have been enacted even if such invalid provision had not been included herein.

§ 300-__ . When Effective

This chapter, together with the Zoning Map and the Schedule of Use and Bulk Regulations, and Form-Based Code (Article x) incorporated herein and made a part of this chapter, shall take effect 10 days after its publication and posting as required by City Law.

§ 300-__ . Repeal of Existing Zoning Ordinance

The ordinance entitled "City of Newburgh, New York, Zoning Ordinance," effective __ __, __, including all amendments to said ordinance, is hereby repealed as of the effective date of this chapter.



City of Newburgh, NY

Form-Based Code: Downtown Districts and Waterfront

Chapter 300; article X of the
Zoning Ordinance

PART 1: INTRODUCTION

- 1.1 – Purpose and Intent of Form-Based Code
- 1.2 – Districts Defined
- 1.3 – Existing Context
- 1.4 – Schedule of Permitted Uses

PART 2: DISTRICT REGULATIONS AND GUIDELINES

- 2.1 – Broadway Corridor
- 2.2 – Downtown Neighborhood
- 2.3 – Waterfront Gateway
- 2.4 – Planned Waterfront District

PART 3: SUPPLEMENTARY STANDARDS

- 3.1 – Building Types
- 3.2 – Design Standards
- 3.3 – Signs and Awnings
- 3.4 – Streetscape Standards
- 3.5 – Landscape Standards
- 3.6 – Hudson River Waterfront Access
- 3.7 – Parking Requirements in Downtown Districts

1.1 – PURPOSE AND INTENT OF FORM-BASED CODE

1.2 – DISTRICTS DEFINED

1.3 – EXISTING CONTEXT

1.4 – SCHEDULE OF PERMITTED USES

1.1 PURPOSE AND INTENT OF FORM-BASED CODE

In order to promote a more urban, walkable, and vibrant downtown, the City of Newburgh has chosen to utilize a Form-Based Zoning approach for its four downtown districts. The regulations in this Article supplement those regulations found in the rest of this Chapter and provide specific details on the form of development that is encouraged and allowed in this important section of the City.

This Form-Based Code will:

- Focus on the importance of building types and the relationship of one building to another
- Allow flexibility and variety with respect to uses within buildings and within a zoning district
- Help ensure new development is compatible with the existing urban fabric of downtown Newburgh
- Provide guidelines for the redevelopment of the waterfront
- Provide clarity to developers about what is desired and allowed
- Speed the application and approval process for projects meeting the requirements of this Article

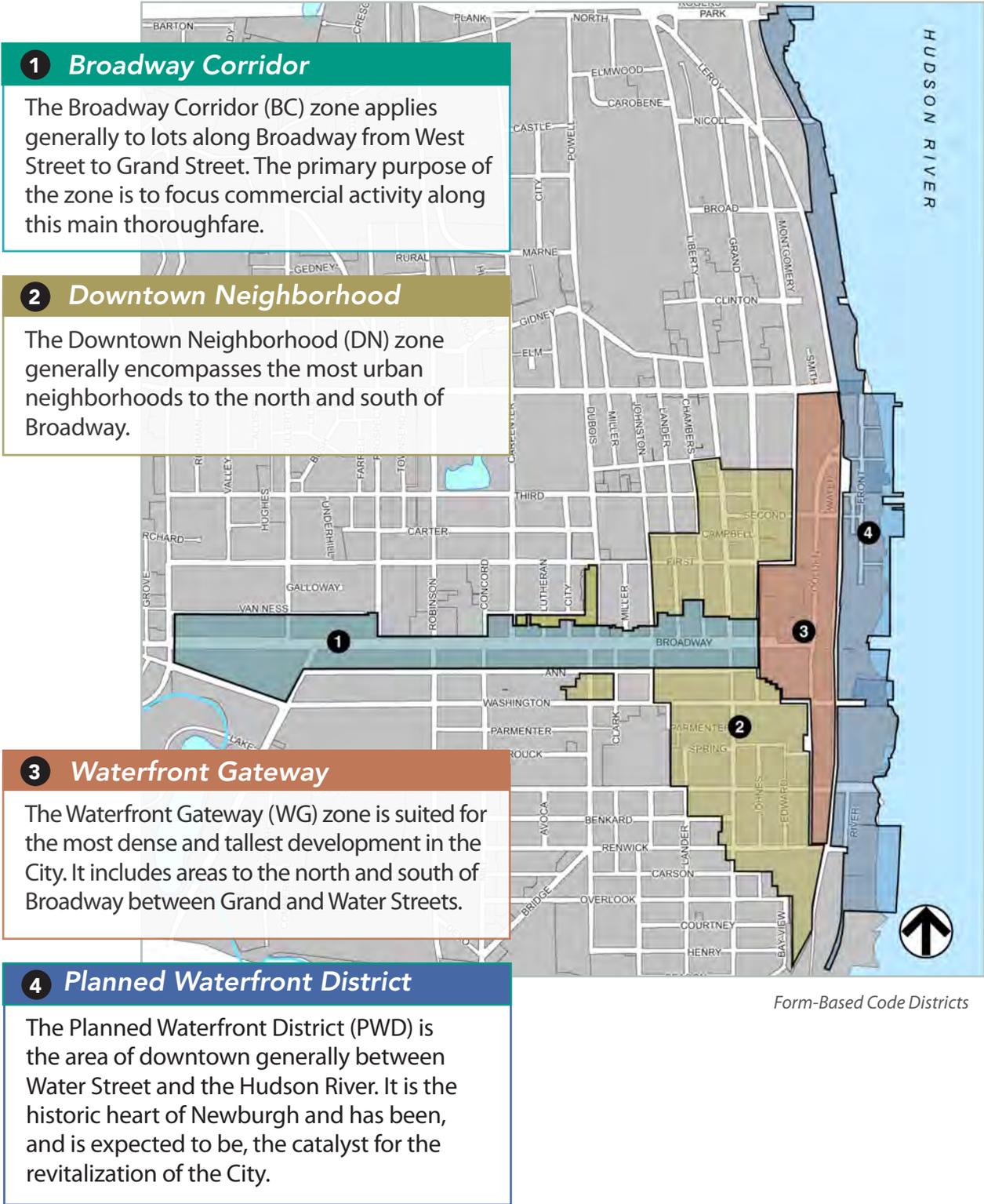
Organization

This Form-Based Code (FBC) is a fully binding and enforceable component of the City's Zoning Code. It is also designed as a 'stand-alone' resource for the development regulations for Newburgh's downtown.

The Form-Based Code is organized as follows.

- Part 1: Introduction – This section describes the purpose and intent of the Form-Based districts and includes the schedule of permitted uses within the districts.
- Part 2: District Regulations and Guidelines – This section defines the development standards for each of the four downtown districts.
- Part 3: Supplementary Standards – This section provides detailed standards on building design, streetscape, and parking within the Form-Based districts.

The following four zoning districts, shown on the official Zoning Map of the City of Newburgh, are regulated through this Form-Based Code. The regulations in this form-based code regulate the use, bulk, area, and design of new construction within these four zoning districts.



Form-Based Code Districts

The following images on these two pages characterize some of the existing form within the downtown districts and show the diversity of existing building types and uses within the FBC districts. They are presented for informational purposes only.

BROADWAY CORRIDOR



Shopfront Building Type
• Shopfront building type used for residential use
• Entrance should be accentuated more



Shopfront Building Type
• Mixed-use buildings on Broadway
• Zero front and side yard setback
• Complementary, but not identical, architectural features
• Infill opportunities on vacant and underdeveloped lots



Civic Building Type
• Former Armory
• Distinctive architecture and building form
• Respects street wall

DOWNTOWN NEIGHBORHOOD



Rowhouse Building Type
• Façade breaks for every lot
• Stoop type entrance feature
• All houses are built with entrance feature right to front lot line



Shopfront Building Type
• Liberty/Grand Street commercial corridor
• High degree of transparency on the first floor
• Architectural feature (bay window) allowed to encroach onto public right of way to add visual interest



Rowhouse Building Type
• Porch type entrance feature
• Architectural accents, including bay windows, to maximize visual interest
• All houses are built with entrance feature to front lot line

WATERFRONT GATEWAY



- Civic Building Type**
- Institutional uses and civic buildings anchor Waterfront Gateway District
 - Higher building to capitalize on Hudson River views and site topography

PLANNED WATERFRONT DISTRICT



- Shopfront Building Type**
- Front Street on the waterfront
 - Ground-floor commercial and retail
 - Awnings provide visual interest
 - Setback should be used for public amenities

- Waterfront walkway between Hudson River and buildings
- Pedestrian path provided with lighting, seating, and other amenities

The Form-Based Code allows a mix of uses, both within lots and within buildings. The following uses are permitted within the Form-Based districts.

A. Permitted by Right and Permitted by Site Plan

The following uses, as shown on the Schedule of Use Regulations, are allowed as-of-right within the Broadway Corridor and Downtown Neighborhood Districts and require Site Plan approval within the Waterfront Gateway and Planned Waterfront Districts. Uses marked with an ‘*’ require site plan approval within the BC and DN districts.

Residential Uses

- | | | |
|---|---|---|
| <ul style="list-style-type: none"> • Multi-family dwellings above ground-floor commercial/retail uses • Apartment buildings • Residential Care Facility • Cooperative House | <ul style="list-style-type: none"> • Family Day Care • Detached dwelling + • Attached dwellings ++ | <p>+ Only allowed in portions of the Downtown Neighborhood District, see Section 2.2</p> <p>++ Not allowed on Broadway, on the south side of Front Street, or in the Broadway Corridor District, see Part 2</p> |
|---|---|---|

Commercial and Other Uses

- | | | |
|--|---|---|
| <ul style="list-style-type: none"> • Activity Facility • Adult Day Care • Bank (no drive thru) • Bar, Brew Pub • Bed and Breakfast • Bowling Alley* • Business or Professional Offices • Cabaret | <ul style="list-style-type: none"> • Cottage Industry • Day Care Center • Funeral Home* • Home Occupation • Hotel or motel • Marina* • Museum * • Nursing Home* | <ul style="list-style-type: none"> • Personal Services (hair salon, nail salon, dressmaker) • Billiard Parlor • Restaurant (no drive thru) • Retail Store • Tattoo Parlors • Parks and open space • Buildings, Uses, or Facilities of any governmental unit* |
|--|---|---|

B. Uses by Special Permit of the Planning Board

The following uses are allowed in the BC, DN, WG and PWD districts by special permit from the Planning Board.

- | | | |
|--|--|--|
| <ul style="list-style-type: none"> • Animal Day Care, Kennel or Shelter • Amusement Center • Assembly Hall/Banquet Hall • House of Worship • Boarding House | <ul style="list-style-type: none"> • Rooming House • Boat Repair • Car Rental • School of General Instruction • Private Recreation Facilities • Public Libraries | <ul style="list-style-type: none"> • Membership Clubs • Movie or Professional Theater, Indoor Concert Venue • Off-Street Community Parking Area • Technical School |
|--|--|--|

C. Architectural Review Commission

Lots within the Historic Overview District must also comply with the requirements of Article X.

PART 2: DISTRICT REGULATIONS AND GUIDELINES

- 2.1 – Broadway Corridor
- 2.2 – Downtown Neighborhood
- 2.3 – Waterfront Gateway
- 2.4 – Planned Waterfront District

2.1 BROADWAY CORRIDOR



The Broadway Corridor is characterized by a wide street with shopfront type buildings fronting on the lot line. Current form encourages pedestrian activity and serves as the central commercial corridor in the City.



PURPOSE & INTENT

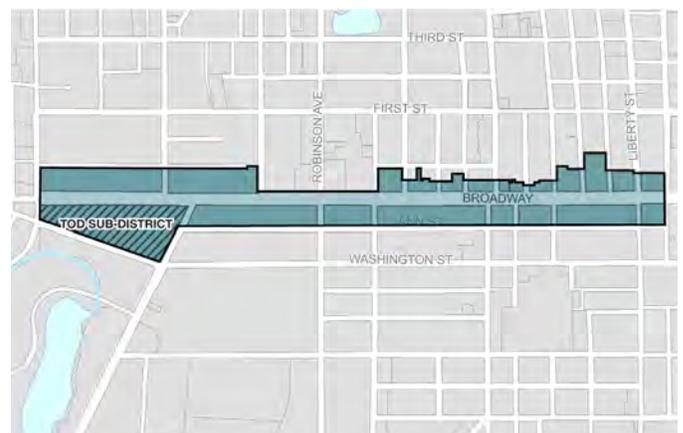
The purpose and intent of the Broadway Corridor is to:

- Promote a vibrant, pedestrian oriented Broadway;
- Focus new commercial development along Broadway;
- Provide for a mix of uses that serves the needs of the residents of, and visitors to, the City.

Within this district, the preferred form for new development is the shopfront form, also known as the Main Street form. This form generally features ground-floor retail with residential or commercial uses on the upper floors. Buildings with residential use only are allowed, but must follow the design guidelines for the district.

A transit oriented development is planned for the western end of the district. The area is bound by

Broadway to the north and West Street and Lake Street to the east and west. This 'sub-district' will feature the same general form as the rest of the corridor, but will allow slightly higher and more dense new development that will capitalize on transit investments made by the City and County.



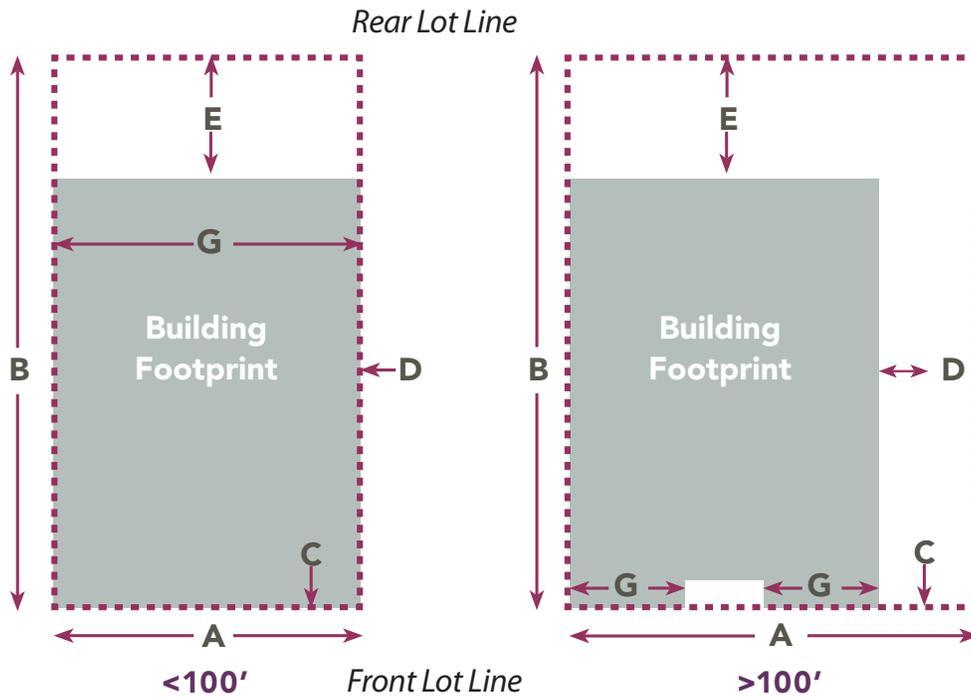
Lot Standards

Buildings within the Broadway Corridor District shall comply with the following lot, building height, and building frontage requirements.

	MIN (feet)	MAX (feet)
(A) Lot Width	20	-
(B) Lot Depth	75	-
(C) Front Setback ¹	0	0/10
(D) Side Setback ²	0	0
(E) Rear Setback ^{3,4,5}	20	-
(F) Landscaped Area ⁶	10%	-
(G) Frontage Occupancy	80%	-
(H) Height ⁷		
Broadway Corridor	3 stories/35 feet	5 stories /65 feet
TOD 'sub-district' <i>(south of Broadway between Lake and West Streets)</i>	4 stories /45 feet	6 stories /75 feet

1. A maximum of 10 feet may be allowed only if the front yard has no parking and is landscaped and used in a manner that enhances the street life by such means as pocket parks or plazas, outdoor dining areas, or public art. No outdoor display of items for sale shall be permitted in the front yard.
2. Lots 100 feet wide or greater may have, but are not required to have, one side yard of 12 feet.
3. If the rear yard is dedicated to the City of Newburgh as all or part of a public parking lot or structure, the minimum setback shall be 5 feet with landscaping within the setback to screen from adjacent uses.
4. Lots fronting on Broadway and within the TOD sub-district are not required to have a rear yard.
5. Private service alleys are permitted within the rear yard.
6. Lots fronting on Broadway, and all those lots south of Broadway between West and Lake Streets, are not required to have a minimum landscaped area.
7. A 6th story is only allowed if set back from the front façade at least 15 feet.

Building Placement Examples

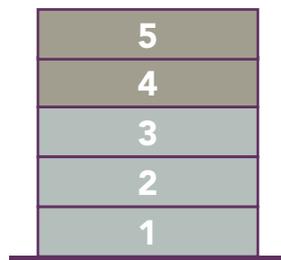


- Building placed at front lot line for continuous street wall
- Lot width < 100 feet so no side yard allowed

- Recessed entrance allowed because 80% of façade is at lot line
- One side yard of 12 feet is allowed because lot width is greater than 100 feet

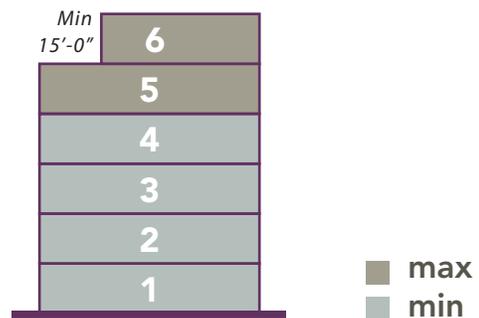
Building Height Diagrams

Broadway Corridor



- Minimum 3 stories (35 feet)
- Maximum 5 stories (65 feet)

TOD 'Sub-District'



- Minimum 4 stories (45 feet)
- Maximum 6 stories (75 feet)
- 6th story must be setback 15 feet

BUILDING AND SITE ENHANCEMENT STANDARDS

Building & Sign Types

Buildings within the Broadway Corridor District must be of the Shopfront or Civic building type as defined in 3.1. Midrise buildings are also allowed in certain areas of the district. The table below illustrates the allowable sign types, as defined and regulated in 3.3, for each building type.

Building Type \ Sign Type	SHOPFRONT	MIDRISE*	ROWHOUSE	COMPACT DETACHED	CIVIC
BAND 					
BLADE 					
SHINGLE 					
AWNING 					
YARD 					
MARQUEE 					

* Not allowed for buildings that front Broadway or are within the TOD sub-district.

2.2 DOWNTOWN NEIGHBORHOOD



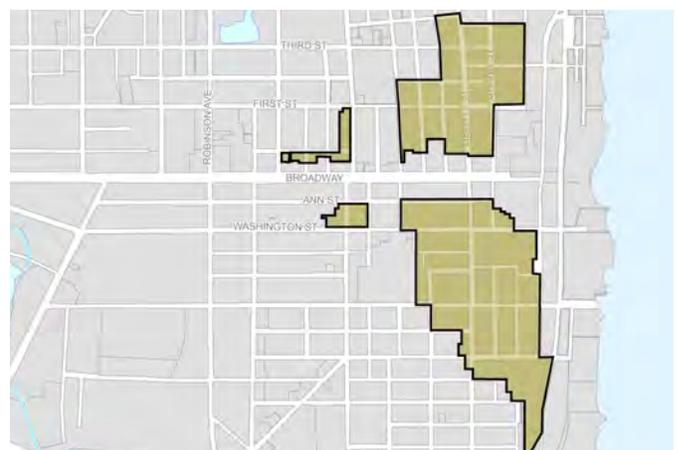
The Downtown Neighborhood is characterized by residential blocks featuring rowhouses, the Liberty/Grand Street commercial corridor with a mix of uses and building façades, and mixed-use blocks of residential with shopfronts on the corner.

PURPOSE & INTENT

The primary intent of this zone is to protect and promote the quality of the downtown residential neighborhoods immediately north and south of Broadway and the smaller scale mixed-use shop front buildings located primarily on Liberty and Grand Streets. This zone also includes the Liberty/Grand Street Heritage Corridor and contains a number of historically significant properties.

Several building forms are in this district. New infill development shall respect the pattern and scale of the existing urban development. Compact detached houses with small side yards are allowed if not on Liberty or Grand Streets. Within the more commercial areas of the district, such as Liberty or Grand Streets, the Shopfront and Midrise are the preferred building types. These commercial, mixed-use, and higher density residential

structures will reflect the historic development pattern of the area and capitalize on the cultural assets within the district.



Lot Standards

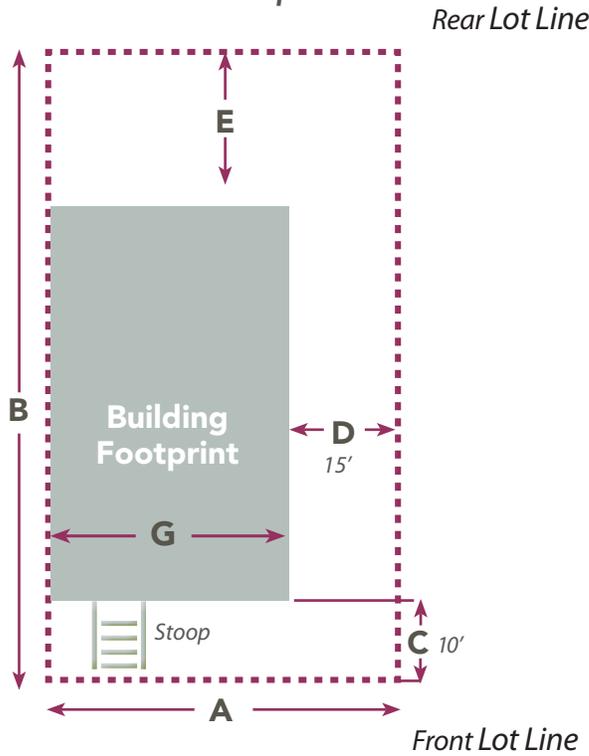
Buildings within the Downtown Neighborhood District shall comply with the following lot, building height, and building frontage requirements.

	MIN (feet)	MAX (feet)
(A) Lot Width	20	-
(B) Lot Depth	75	-
(C) Front Setback ¹	-	0/10
(D) Side Setback ^{2,3,4}	-	0
(E) Rear Setback ^{5,6}	20	-
(F) Landscaped Area	15%	-
(G) Frontage Occupancy	80%	-
(H) Height ⁷		
Rowhouse & Compact Detached House	2 stories/25 feet	4 stories/50 feet
Shopfront & Midrise	3 stories/35 feet	6 stories /75 feet

1. A maximum of 10 feet may be allowed only if:
 - a) For Shopfront, primarily commercially used Midrise, and Civic buildings – the front yard has no parking and is landscaped and used in a manner that enhances the street life by such means as pocket parks or plazas, outdoor dining areas, or public art. No outdoor display of items for sale shall be permitted in the front yard; OR,
 - b) For Rowhouses, primarily residential Midrises, and Compact Detached Houses – the entrance feature connects the house to the sidewalk.
2. Lots 100 feet wide or greater may have, but are not required to have, one side yard of 12 feet
3. Compact Detached Houses may have two side yards that are no more than 20 feet combined, no one of which is greater than 15 feet.
4. Rowhouses are allowed to have one side yard no greater than 12 feet and no less than 5 feet.
5. If the rear yard is dedicated to the City of Newburgh as all or part of a public parking lot or structure, the minimum setback shall be 5 feet with landscaping within the setback to screen from adjacent uses.
6. Private service alleys are permitted within the rear yard.
7. A 6th story is only allowed if set back from the front façade at least 15 feet.

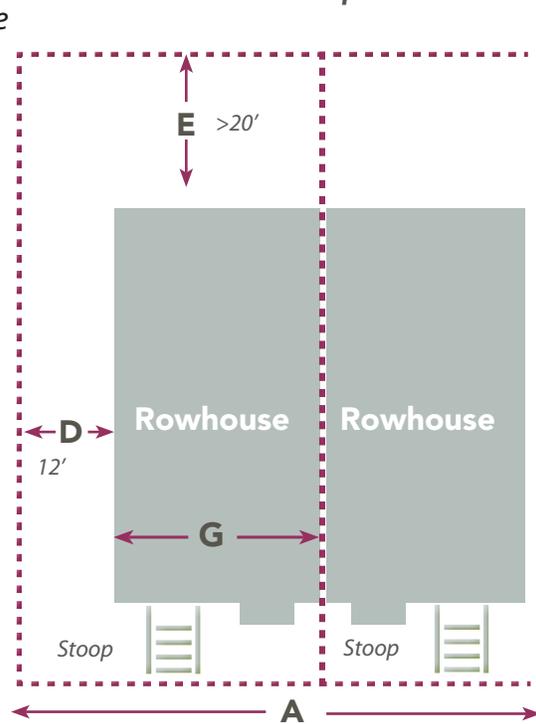
Building Placement Examples

Compact Detached House Placement Example



- Building façade is set back no more than 10 feet from front lot line
- Stoop continues to front lot line
- One side yard of 15 feet provided

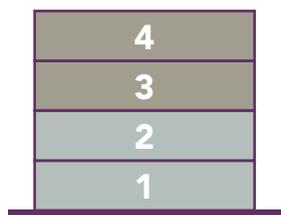
Rowhouse Building Placement Example



- Building façade is set back no more than 10 feet from front lot line
- Stoop connects to sidewalk
- Where possible, building facade aligns with adjoining building
- One side yard on end building of 12 feet allowed

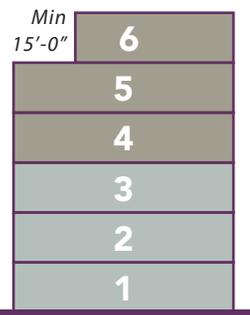
Building Height Diagrams

Rowhouse/Compact Detached House



- Minimum 2 stories (25 feet)
- Maximum 4 stories (50 feet)

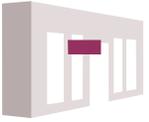
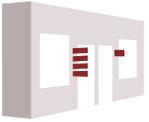
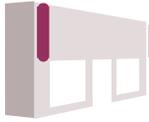
Shopfront/Midrise



- Minimum 3 stories (35 feet)
- Maximum 6 stories (75 feet)
- 6th story must be setback 15 feet

■ max
■ min

Building & Sign Types

Building Type \ Sign Type	SHOPFRONT	MIDRISE	ROWHOUSE	COMPACT* DETACHED	CIVIC
BAND 					
BLADE 					
SHINGLE 					
AWNING 					
YARD 					
MARQUEE** 					

* Not allowed on lots fronting Liberty or Grand Streets
 ** Only allowed on the Liberty and Grand Street building frontage.

2.3 WATERFRONT GATEWAY



The Waterfront Gateway is anchored by institutional uses and civic buildings. Much of the rest of the district is characterized by large undeveloped and underdeveloped properties, many of which are City-owned.



PURPOSE & INTENT

The primary intent of the Waterfront Gateway District is to maximize the residential and commercial density of new development. New projects in this zone should capitalize on the dramatic views of the Hudson River Valley, while protecting the views of the river from upland as defined in Article X. It is anticipated that marquis buildings will anchor this district along Broadway and a mix of uses north and south of Broadway will create a center of activity within the City.

This district forms a transition between the Waterfront, the Broadway Corridor, and the Downtown Neighborhood districts. Development should provide inviting public spaces that encourage pedestrian activity. The physical form of buildings is intended to vary within the district. Mid to high-rise buildings are encouraged along Broadway and its surrounding blocks, with shopfronts on the first floor to encourage

pedestrian activity. Higher density residential, mixed-use, and commercial buildings are encouraged in the rest of the district. Creative responses to the opportunities presented by the district's vacant and underutilized blocks are strongly encouraged.



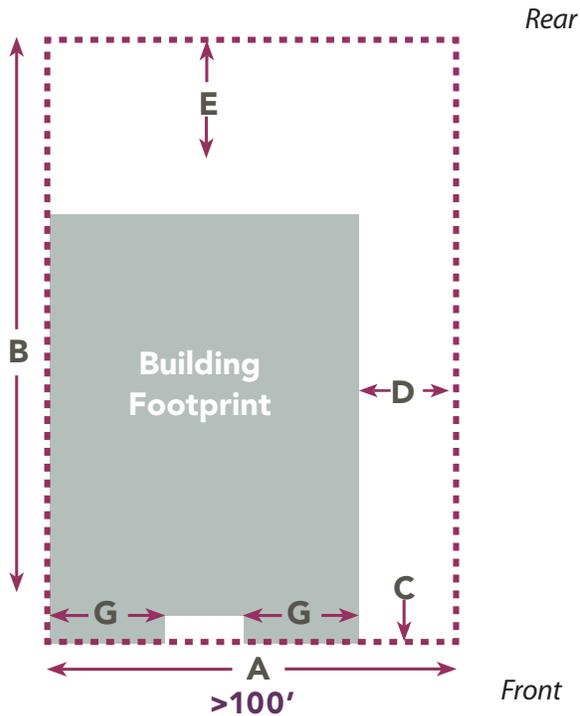
Lot Standards

Buildings within the Waterfront Gateway District shall comply with the following lot, building height, and building frontage requirements.

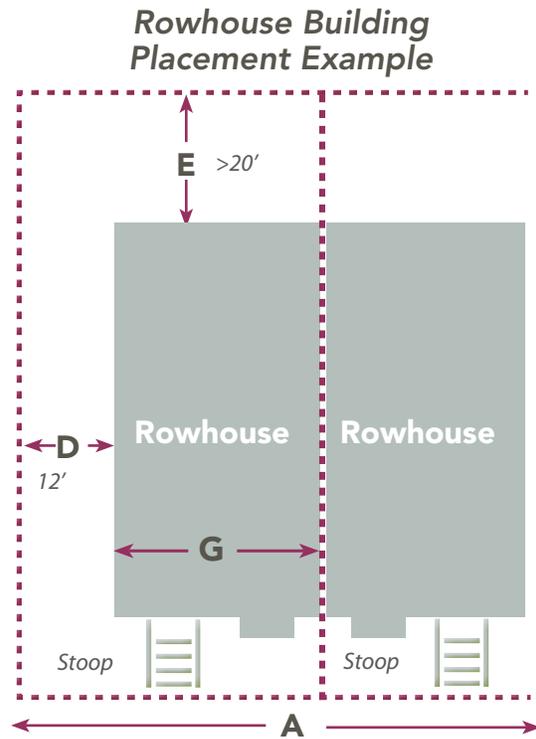
	MIN (feet)	MAX (feet)
(A) Lot Width	20	-
(B) Lot Depth	75	-
(C) Front Setback ¹	-	0/10
(D) Side Setback ^{2,3}	-	0
(E) Rear Setback ^{4,5}	20	-
(F) Landscaped Area ⁶	10%	-
(G) Frontage Occupancy	80%	-
(H) Height ⁷		
Rowhouse	3 stories/30 feet	4 stories/50 feet
Shopfront & Midrise	5 stories/50 feet	8 stories/95 feet

1. A maximum of 10 feet may be allowed only if:
 - a) For Shopfront, Midrise, and Civic buildings – the front yard has no parking and is landscaped and used in a manner that enhances the street life by such means as pocket parks or plazas, outdoor dining areas, or public art. No outdoor display of items for sale shall be permitted; OR,
 - b) For Rowhouses – the entrance feature connects the house to the sidewalk allowed.
2. Lots 100 feet wide or greater may have, but are not required to have, one side yard of 12 feet.
3. Rowhouses are allowed to have one side yard no greater than 12 feet and no less than 5 feet.
4. If the rear yard is dedicated to the City of Newburgh as all or part of a public parking lot or structure, the minimum setback shall be 5 feet with landscaping within the setback to screen from adjacent uses.
5. Private service alleys are permitted within the rear yard.
6. Lots fronting on Broadway are not required to have a minimum landscaped area.
7. An 8th story is allowed if set back from the front façade at least 15 feet.

Building Placement Examples



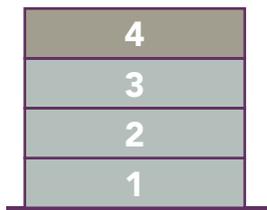
- Recessed entrance allowed because 80% of building façade is at lot line
- One side yard of 12 feet is allowed because lot width is greater than 100 feet



- Building façade is set back no more than 10 feet from front lot line
- Stoop connects to sidewalk
- Where possible, building facade aligns with adjoining building
- One side yard on end building of 12 feet allowed

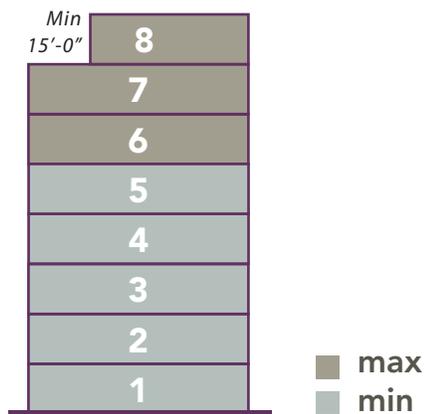
Building Height Diagrams

Rowhouse/Compact Detached House



- Minimum 3 stories (30 feet)
- Maximum 4 stories (50 feet)

Shopfront/Midrise



- Minimum 5 stories (50 feet)
- Maximum 8 stories (95 feet)
- 8th story must be setback 15 feet

Building & Sign Types

Building Type \ Sign Type	SHOPFRONT	MIDRISE*	ROWHOUSE*	COMPACT DETACHED	CIVIC
BAND					
BLADE					
SHINGLE					
AWNING					
YARD					
MARQUEE**					

*Not allowed for buildings that front Broadway
 ** Only allowed on the Broadway frontage of buildings.

2.4 PLANNED WATERFRONT DISTRICT



The waterfront district is currently characterized by large amounts of surface parking, thriving restaurants and marinas, and retail uses. A waterfront walkway has been started and links to a City Park offering beautiful views of the Hudson. The district also contains large undeveloped parcels.

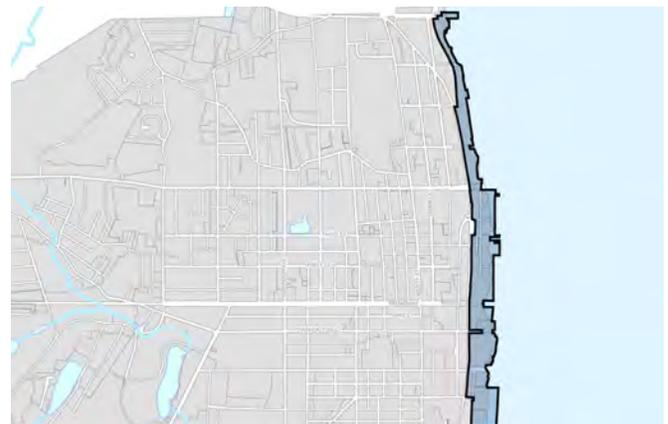
PURPOSE & INTENT

The PWD is established with the goal of revitalizing the waterfront and establishing the City as a regional destination along the Hudson River. Within this district, water-dependent and water-enhanced uses are encouraged. A broad mix of uses, including housing, commercial, cultural, and open space uses are allowed.

Because of the importance of this district to the overall development of the City and because of the large number of vacant and underutilized parcels within the district, all new construction must obtain Site Plan Approval from the Planning Board in accordance with Section xxx. Development must also meet open space standards as well as provide public access to the waterfront.

The physical form and orientation of the buildings within the PWD should reflect the importance of the Hudson River to the successful redevelopment of the waterfront and should encourage activation

of the waterfront through increased pedestrian utilization. Shopfront buildings and Rowhouses, along with Civic buildings, are permitted within this district. Parking lots, both structured and surface, should be primarily located adjacent to the railroad tracks. This will allow the parking to be screened from vantage points to the east and west.



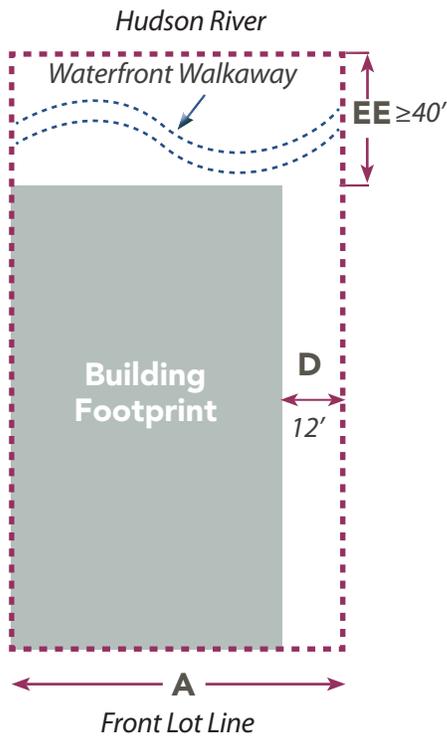
Lot Standards

Buildings within the Planned Waterfront District shall comply with the following lot, building height, and building frontage requirements.

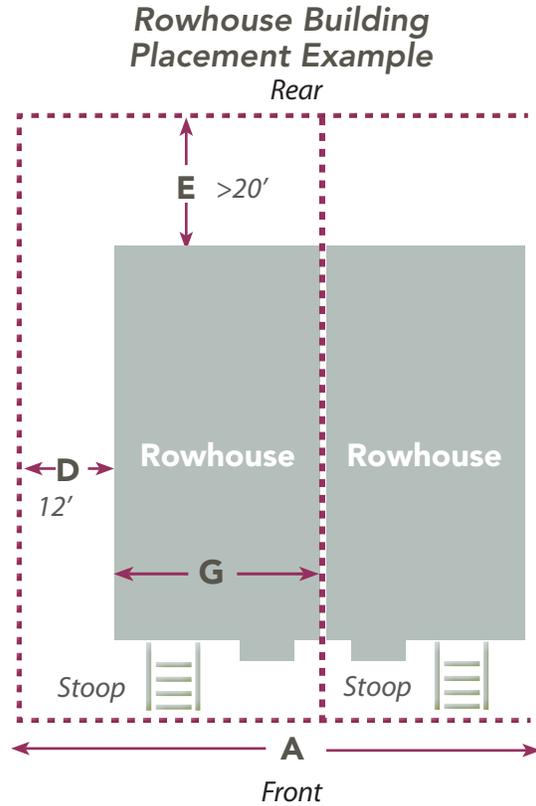
	MIN (feet)	MAX (feet)
(A) Lot Width	20	-
(B) Lot Depth	75	-
(C) Front Setback ¹	-	0/10
(D) Side Setback ²	-	15
(E) Rear Setback	-	-
(EE) Hudson River Setback*	40	-
(F) Landscaped Area ³	15%	-
(G) Frontage Occupancy	80%	-
(H) Height ⁴		
Rowhouse	2 stories/25 feet	4 stories/50 feet
Shopfront & Midrise	5 stories/50 feet	6 stories/65 feet

1. A maximum of 10 feet may be allowed only if:
 - a) For Shopfront, Midrise, and Civic buildings – the front yard has no parking and is landscaped and used in a manner that enhances the street life by such means as pocket parks or plazas, outdoor dining areas, or public art. No outdoor display of items for sale shall be permitted in the front yard; OR,
 - b) For Rowhouses – the entrance feature connects the house to the sidewalk.
 2. If a side yard is provided, it shall be no less than 8 feet and no more than 15 feet.
 3. Lots fronting on Broadway and lots on the north side of Front Street between Broadway and South Street are not required to have a minimum landscaped area.
 4. A 6th story is allowed if set back from the front façade at least 15 feet.
- * Hudson River Setback is measured from each point along the shoreline, bulkhead, or stabilized shore, landward. Accessory swimming pools, parking, balconies, and porches are not allowed in the Hudson River Setback. Water-dependent uses and structures may be located in the Hudson River Setback with approval from the Planning Board.

Building Placement Examples



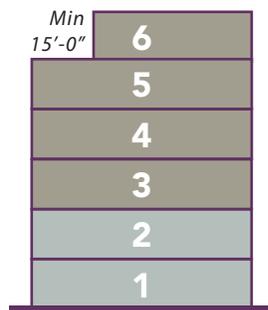
- Hudson River Setback of at least 40 feet
- Waterfront walkway provided in Hudson River setback



- Building façade is set back no more than 10 feet from front lot line
- Stoop connects to sidewalk
- Where possible, building facade aligns with adjoining building

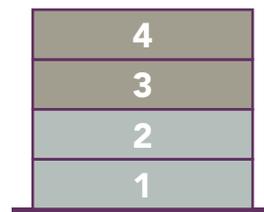
Building Height Diagrams

Shopfront/Midrise



- Minimum 2 stories (25 feet)
- Maximum 6 stories (65 feet)
- 6th story should be setback 15 feet

Rowhouse



- Minimum 2 stories (25 feet)
- Maximum 4 stories (50 feet)

■ max
■ min

Building & Sign Types

Building Type Sign Type	SHOPFRONT	MIDRISE	ROWHOUSE*	COMPACT DETACHED	CIVIC
BAND 					
BLADE 					
SHINGLE 					
AWNING 					
YARD 					
MARQUEE** 					

* Not allowed on Broadway or on the south side of Front Street.

** Only allowed on the Broadway frontage of buildings..

Massing – In order to protect the view corridors to the Hudson River and to reduce the scale of waterfront buildings, an individual building may occupy no more than 100 feet of the dimension of the lot measured parallel to Front Street. Buildings to the north of Broadway and west of Front Street are exempted from this supplementary massing requirement.

Parking – Whenever possible, parking (both surface and structured) should be placed adjacent to the railroad tracks. In this manner, the visibility of the parking can be minimized both from points to the east (downtown) and from pedestrians within the waterfront. Limited on-street parking may be allowed at the discretion of the Planning Board and in consultation with the Department of Public Works. In addition, no parking shall be allowed within the Hudson River Setback.

Open Space

All lots greater than 50,000 square feet in area shall provide maintained open space(s) for the benefit of the residents, clients, and/or general public.

The amount of maintained open space shall equal no less than 10% of the area of all lands not underwater.

The nature, location, and maintenance plans for such open spaces shall be approved by the Planning Board during Site Plan review.

A lot's *Waterfront Area*, may account for no more than 25% of a Site's required Open Space.

On-site open space can be used for passive or active recreation and/or to create, enhance, or preserve important views both into and from the City.

Public Access

This 'Public Access' section summarizes the detailed requirements in Section 3.6.

Physical Access

Public access to the river's edge shall be provided for all lots having the Hudson River as part of its boundary.

Public access shall consist of:

- A *Waterfront Area* that is open to the public and has a minimum width of 20 feet
- A *Waterfront Walkway* within the *Waterfront Area* that is a minimum of 12 feet wide

Visual Access:

All new construction within the PWD shall preserve views of the Hudson River created by the public streets grid.

All applications for Site Plan Approval shall be evaluated for their impacts to the following scenic views:

- Montgomery and South Streets
- Washington's Headquarters
- Broadway and Colden Street
- Newburgh Public Library
- First and Montgomery Streets
- Bay View Terrace

PART 3: SUPPLEMENTARY STANDARDS

- 3.1 – Building Types**
- 3.2 – Design Standards**
- 3.3 – Signs and Awnings**
- 3.4 – Streetscape Standards**
- 3.5 – Landscape Standards**
- 3.6 – Hudson River Waterfront Access**
- 3.7 – Parking**

The building types defined in this Section are allowed within the BC, DN, WG, and PWD districts. The design standards and regulations that apply to each building type are in addition to those required within each zoning district.

Shopfront Building Type

The façade of the shopfront building type is placed at or close to the front lot line with an entrance generally at sidewalk grade. Pedestrian-oriented retail or office uses are generally located on the ground-floor with upper floors typically designed for residential, hospitality, or employment uses. The shopfront building type is characterized by:

- A high percentage of glazing on the first floor
- A prominent entrance
- First floor architectural articulation, such as a shopfront with cornice, or architecturally emphasized entrance



Shopfront Building Type

Built to front lot line

High degree of transparency on first floor

Architectural articulation between 1st and 2nd floor

Roof line architectural features

Evenly placed windows

Standards

Massing

- Maximum length of building wall along a street shall be 200 feet
- Buildings must have a break in façade at least every 50 feet from the previous break or the end of the building. A façade break may be met through the use of architectural features (such as bay windows, porches, porticos, recessed doorways, etc.), through changes in building material or finish, or by other similar means.

Windows

- Street level primary façades
 - Minimum of 60% window coverage
 - Transparent with views into the business
 - Bottom of window shall be between 24 and 32 inches above the sidewalk
- Floors above street level and secondary façades
 - Minimum 30% window coverage for commercial uses
 - Minimum 15% window coverage for residential uses
 - Individual window proportions shall be greater in height than width

- Exterior window guards (e.g. security guards) shall be integrated with the design of the building
- Windows shall be placed in a consistent pattern within the first floor, floors two through the penultimate floor, and the top floor

Entrances

- Main building entrances shall be accentuated – permitted accents include: recessed, canopy, awning, portico, or overhang
- All primary entrances shall be illuminated from above. No up facing lighting is permitted.
- Security doors guards shall be integrated with the design of the building

Corner Articulation

- Main entrances to buildings on corner lots should be oriented to the corner and public street fronts
- Main building entrance should be on the primary street
- Massing and architecture of the building should reflect the importance of a corner site and relate to both street frontages

Midrise Building Type

The midrise building is a key characteristic of an urban downtown providing higher density buildings where the building line generally meets the lot line. Midrise buildings may include a vertical mix of uses (such as ground-floor retail or service with upper floor residential, service, or office), or single-use building (such as residential or office).

Standards

Massing

- Maximum length of building wall along a street shall be 200 feet
- Buildings must have a break in façade at least every 50 feet from the previous break or the end of the building. A façade break may be met through the use of architectural features (such as bay windows, porches, porticos, recessed doorways, etc.), through changes in building material or finish, or by other similar means.

Windows

- Minimum 30% window coverage on first floor
- Minimum 15% window coverage above the first floor
- Individual window proportions shall be greater in height than width
- Exterior window guards (e.g. security guards) shall be integrated with the design of the building
- Windows shall be placed in a consistent pattern within the first floor, floors two through the penultimate floor, and the top floor

Entrances

- Main building entrances shall be accentuated – permitted accents include: recessed, awning, canopy, portico, or overhang
- Main building entrances should be designed to reflect the primary use of the building. If primarily a residential use, midrises are encouraged to use a stoop, lightwell, or dooryard entrance type (as defined in the ‘rowhouse’ building type)
- A midrise building may also have a forecourt entrance. A forecourt entrance is when a small courtyard is placed on the front lot line of



Midrise Building Type

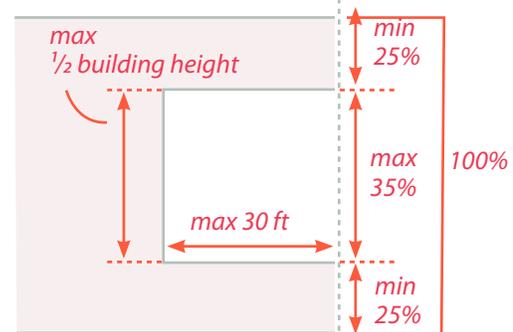
*Building pulled to front lot line
Some transparency on first floor
Evenly spaced window openings
Primary entrances should be accentuated*

the building. A forecourt may occupy no more than 35% of the length of the front façade and must be placed in the middle of the building’s front façade such that no less than 25% of the length of the front façade is located on either side of the forecourt. The forecourt shall be no more than 30 feet deep and no wider than half of the building’s height.

Corner Articulation

- Main entrances to buildings on corner lots should be oriented to the corner and public street fronts
- Main building entrances should be on the primary street
- Massing and architecture of the building should reflect the importance of a corner site and relate to both street frontages

Forecourt Plan



Rowhouse Building Type

- The Rowhouse Building Type is a residential structure typically located on a narrow lot, that shares a party wall with a structure on an adjoining lot. Rowhouses typically range from 2 to 4 stories and are also called townhouses and attached houses. Rowhouses are prominent in the Downtown Neighborhood District in particular, and help provide a broad choice of housing types within the City.
- Rowhouses shall be no more than 30 feet wide and the front façade shall be located near the front lot line



Rowhouse Building Type e

*Rowhouses with stoop and dooryard entrance type features
All entrance features reach the front lot line
Pedestrian clear width provided next to lot line with
streetscape zone closest to curb*

Standards

Windows

- Individual window proportions shall be greater in height than width
- Exterior window guards (e.g. security guards) shall be integrated with the design of the building
- Windows shall be placed in a consistent pattern within the first floor, floors two through the penultimate floor, and the top floor

Entrances

- Rowhouses shall have one of the four entrance types defined below
- Rowhouses shall have their primary entrance on the front façade

Entrance Types

STOOP



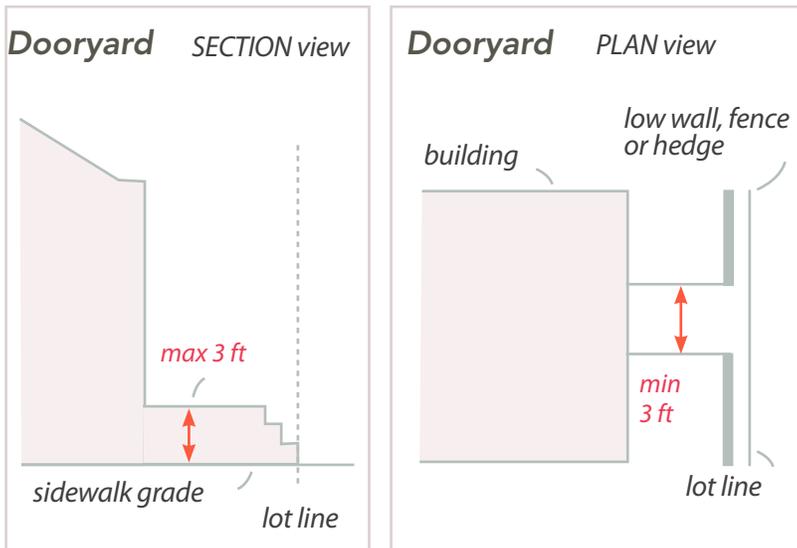
Stoop Entrance Type



Frontage Line defined by low wall, hedge, or fence

- The elevated stoop serves to engage the sidewalk and ensure privacy within the building
- The stairs of the stoop align with, or near to, the lot line
- The stairs to the stoop may be perpendicular or parallel to the sidewalk
- The stoop may have an awning, porch, or portico
- A low wall, fence, or hedge may be provided to define the frontage line

DOORYARD

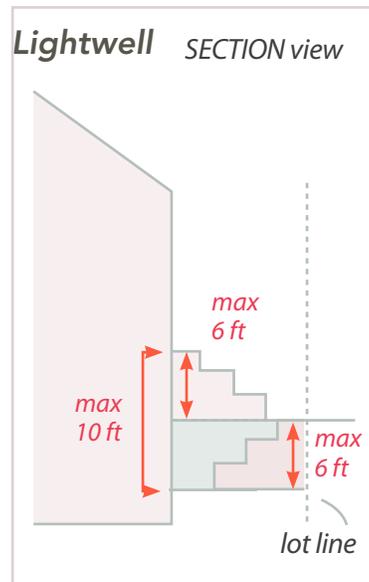


- In the Dooryard Entrance Type:
 - A low wall, fence, or hedge is provided to define the frontage line; and,
 - The main entrance is provided at the same grade as the 'dooryard' that is created.
- Dooryards must be within three vertical feet of the grade of the adjacent sidewalk
- Any stairs that are provided must align with, or near to, the frontage line

LIGHTWELL



Lightwell providing an entrance to the ground floor and basement level.



- In the Lightwell Entrance Type, the setback of the main building façade features either an elevated terrace or recessed lightwell
- The Lightwell Entrance Type allows natural sunlight to enter the floor below grade and often serves to allow an outside entrance from the ground floor and the one immediately below
- Neither the top of the terrace or the bottom of the lightwell shall be more than 6 feet in vertical distance from the sidewalk. In no instance shall the distance between the top of the terrace and the bottom of the lightwell be more than 10 feet.

PORCH



Porch open on two sides and engages building on other two sides



Porch feature shared between multiple rowhouses

- Porches must be a minimum of 18 inches above the sidewalk grade
- Porches must maintain a clear path of travel that is at least three feet wide

Compact Detached House

A compact detached dwelling is located on an urban lot no wider than 75 feet. The maximum individual side yard is 15 feet and two side yards combined may be no more than 20 feet.

Windows

- Individual window proportions shall be greater in height than width
- Exterior window guards (e.g. security guards) shall be integrated with the design of the building
- Windows shall be placed in a consistent pattern within the first floor, floors two through the penultimate floor, and the top floor

Entrances

- Main building entrance shall face the street
- Secondary entrance may be provided on the side or rear of the building if facing a side yard at least 5 feet wide or greater, or a rear yard
- Compact Detached Houses shall have one of the four Entrance types allowed for Rowhouses (e.g. Stoop, Dooryard, Lightwell, or Porch)

Massing

- Compact Detached Houses shall be no more than 36 feet wide
- Where possible, the front building façade shall align with neighboring structures

Civic

Owing to its special and public or quasi-public use, the Civic Building Type is designed to stand out from the form of the adjacent area. Civic buildings are often architecturally distinctive buildings that occupy prominent spaces in the community. The Civic Building Type requires a special use permit and site plan approval from the Planning Board in all districts. Civic Buildings do not need to be institutionally or government owned. For example, Civic Buildings could include theaters.



Civic

*Orange County Community College building
Civic building with unique architecture and site design
Capitalizes on site location, orientation to the Hudson River
Prioritizes pedestrian movements*

Design Standards

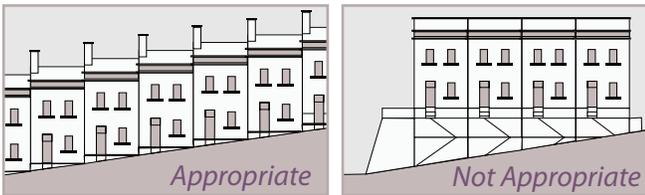
The following design standards shall apply to all of the downtown districts. They are intended to:

- Preserve and enhance the architectural character of the City
- Promote pedestrian access and activity
- Maintain the role of streets as civic and social spaces

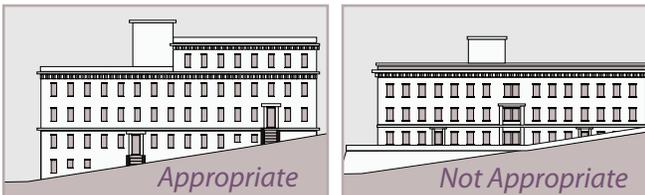
Topography

When topography is altered during construction, the site shall be graded to avoid:

- The creation of retaining walls or blank walls taller than four feet in height along any street frontage
- Mass grading of a site that results in buildings not reflecting the topography of the site



Appropriate mass grading of a site allows narrow footprint buildings to step up and follow the site topography.



Appropriate grading for a large footprint buildings addresses the street along the entire frontage and does not create large blank retaining walls or building facades.

Projections and Encroachments

- Architectural building elements, such as balconies, bay windows, open porches, and cornices may encroach up to three feet beyond the front lot line if the bottom of the encroaching element is at least 10 feet above the grade of the sidewalk
- Window or projected air conditioners are not permitted on the front façade
- Flags attached to a building façade are permitted to encroach up to three feet

beyond the front lot line if the base of the pole is at least six feet above the grade of the sidewalk and is angled upward.

Architectural Features

- Windows may not be placed on a building façade that is within 2 feet of an adjacent lot
- Architectural features, such as balconies and bay windows, are encouraged for all building types
- All building types should include a top floor cornice or comparable architectural feature. If the top floor is required to be set back from the front façade of the floor immediately below, the penultimate floor shall also have a cornice or similar architectural feature.
- Architectural features and windows should be continued on all sides of the building that are visible from a street or public parking area. Blank walls should be avoided.
- Mechanical equipment and refuse containers shall be concealed from public view either by being placed to the rear of the building or screened with appropriate landscaping or walls or architecturally compatible rooftop masking

Building Materials

- Building materials for finishes include wood, brick, stucco, stone, or fiber-cement siding and trim
- Vinyl, aluminum, or sheet metal siding or trim and concrete blocks or walls are not allowed as finish material in any district

Primary Façade

- If a building is on the corner, the primary façade of a building is that which faces the primary street
- The primary street is the one on which the primary use of the building is concentrated
- For Shopfront Building Types, the primary street will usually be either Broadway, Liberty, Grand, or Front Streets

3.3 SIGNS AND AWNINGS

	Quantity per Façade	Maximum Area (square foot)	Maximum Height (h)	Maximum Width (feet) (w)
 BAND	1	16	minimum 1 ft; maximum 3 ft	90% of façade
 BLADE	1	8	4	4
 SHINGLE	1	6	3	2
 AWNING	1 per ground-floor door or window	90% of canopy	n/a	Full span of façade
 YARD	1	9	3	3
 MARQUEE	1	36	12	3

Signage

The purpose of these requirements is to promote high-quality, well-designed signs that:

- Clearly advertise the tenant or user
- Enhance the architectural, structural or landscape features of the associated facility
- Enliven the resident and visitor experience
- Contribute to the improvement of the visual environment, expression of local character
- Minimize sign clutter

All new signs erected in the Form-Based Districts shall comply with the regulations in this Section. The regulations in this section are in addition to the signage regulations found in Part 2 of this Article and Chapter 250 of the City Code. Where the regulations in this Chapter conflict with any other signage regulation, the regulations of this Article shall prevail.

General Standards

Historical markers and tablets, memorial signs and plaques, dates of building erection, and emblems installed by governmental agencies are all exempt from these regulations if they are 12 square feet or less.

Changeable Copy signs are permitted on Civic Buildings, schools, Houses of Worship, and buildings occupied by not-for-profit organizations. (Changeable copy signs are those designed to hold copy (letters, numbers, graphics) that can be readily and periodically modified.)

Signs shall be compatible with building design in terms of relative scale, overall size, materials and colors. Signs shall not dominate a building façade or streetscape

Legibility

- Signs shall avoid hard-to-read intricate type- faces, and limit the number of letter styles
- The area of the sign devoted to text shall be limited. Lettering and logos shall not occupy more than seventy-five percent (75%) of the sign face.
- Signs may use symbols and logos
- Signs shall avoid large contiguous areas of blank space

3.3 SIGNS AND AWNINGS

Minimum Ground Clearance (feet)	Depth (Projection from façade) (feet)	Width of Sign	Maximum Text and Graphics Height (inches)	Maximum Projection into ROW (feet)
(cl)	(d)		(t)	(p)
8	1	n/a	18	1
8	4' or $\frac{1}{3}$ width of sidewalk, whichever is less	n/a	8	4' or $\frac{1}{3}$ width of sidewalk, whichever is less
8	2	n/a	8	2
10	4 feet minimum	n/a	2 ft max text height ; 75% of the awning width max	maximum projection 2 feet from curb
1	n/a	5 inches maximum	75% of sign height max	not allowed
12	3	12 inches maximum	75% of sign width max	3

Location and Size

- Signs shall be designed to relate to the architectural features of the building and to create visual continuity with other shopfronts in the same or adjacent buildings
- When possible, signs shall be placed at or near the public building entrance to indicate accesses
- For the purposes of this sign regulation section only, façade shall mean either a building façade, or that portion of a building façade that is occupied by a single tenant space having a public entrance on the building façade (“Business Façade”). For spaces located interior to a building that do not have direct access to the building façade, the elevation at which public access is provided shall be considered the business façade.

Illumination

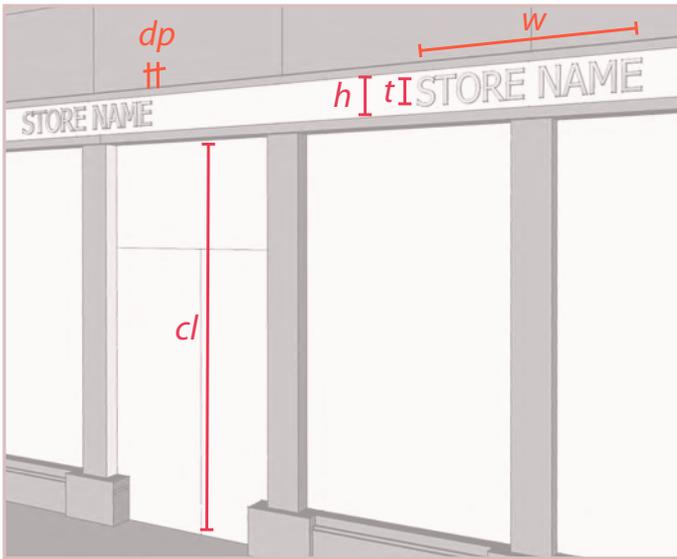
- Utilization of a direct source of light (e.g. spotlight) is permitted. The light shall be focused on the sign and shielded to prevent glare.

- Back-lit, solid letters are encouraged
- Individually illuminated letters, either internally illuminated or back-lit (reverse channel), are permitted
- Signs using internally illuminated cabinet with translucent panels (“box signs”) are not permitted
- Signs that use blinking or flashing lights shall be prohibited
- Neon signs and electronic reader board signs are prohibited

Materials

- Sign materials shall be selected with consideration for the architectural design of the building’s façade. Permitted materials include wood or PVC that is carved, sandblasted, etched, properly sealed and painted, or stained or metal that is formed, etched, cast, engraved, and properly primed and painted or factory coated to protect against corrosion. Acrylic is also permitted.

BAND



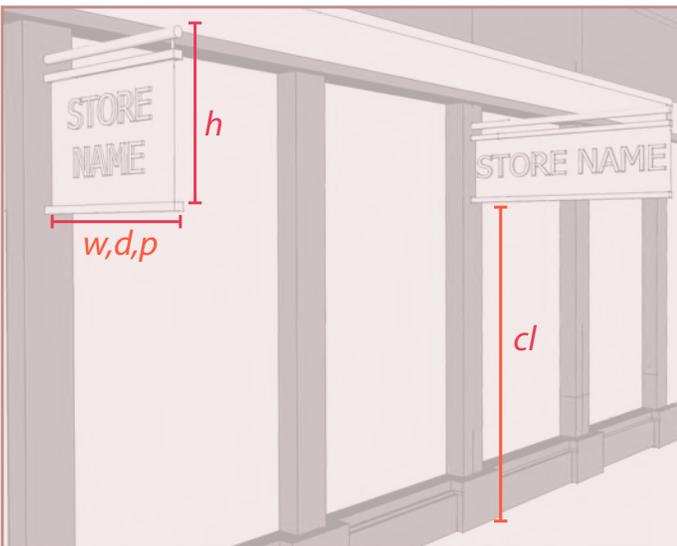
Description

- Individual cut letters placed directly against the façade or placed on a solid background attached to the façade
- The display surface is parallel to the plane of the building façade
- The sign projects no more than 12 inches from the building façade

General Provisions

- Sign is mounted, not be painted directly on the façade
- No portion of the band sign may extend above the roof line or above a parapet wall of a building with a flat roof
- No portion of a band sign may extend above the lower eave line of a building with a pitched roof
- A band sign cannot cover windows or architectural details

BLADE



Description

- Mounted perpendicular to primary street facing façade
- Pedestrian-scale lettering, not auto-scaled

General Provisions

- Must be located at least 25 feet from any other blade or projecting sign
- Top of sign may not be higher than the top of the first floor
- May be mounted only below the second floor
- Shall not have more than two faces

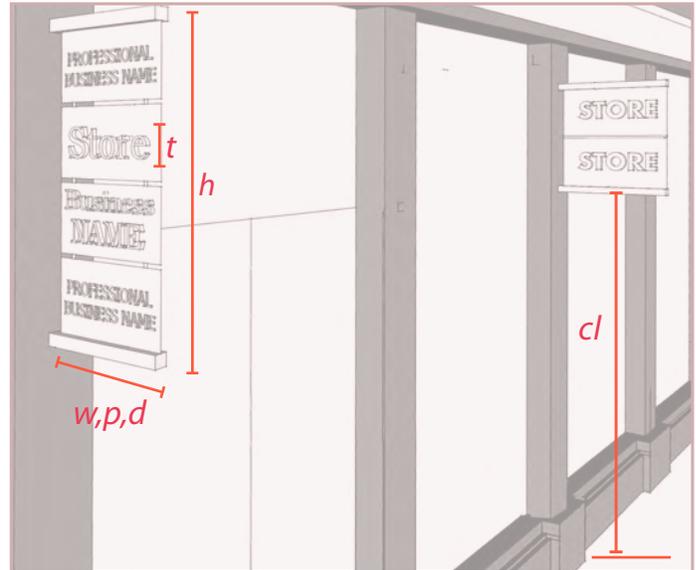
SHINGLE

Description

- Small projecting sign that hangs from a bracket or support perpendicular to façade
- Located adjacent to, or over, the building entrance
- Pedestrian scale lettering, not auto-scaled.

General Provisions

- Hanging bracket must be an integral part of the sign design
- Must be located below the window sills of the second floor
- May not be illuminated



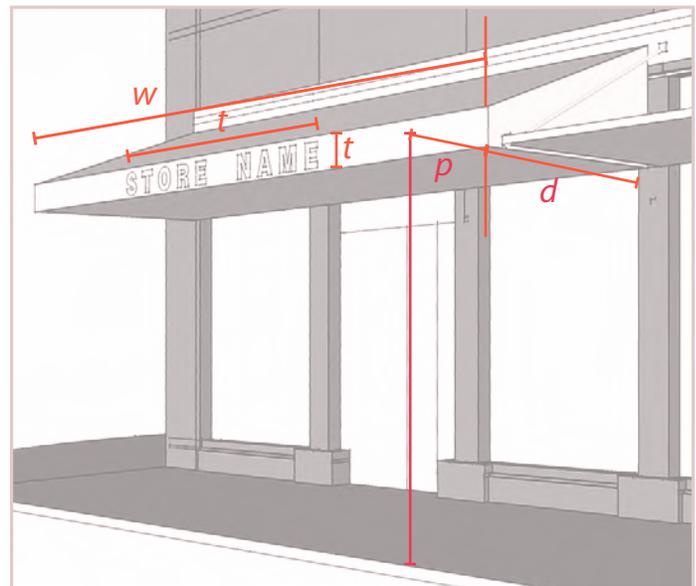
AWNING

Description

- Lettering, graphics or symbols adhered to awning

General Provisions

- Must be flush with the awning or canopy
- Only awnings or canopies over ground story doors and windows may contain signs
- A maximum of one sign is allowed per vertical awning face
- Internal lighting or back lighting of awning signs is prohibited



MARQUEE



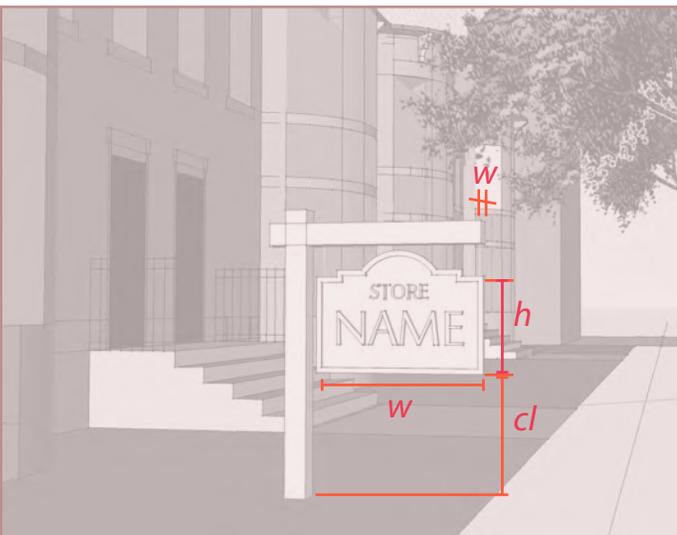
Description

- Large projecting sign
- May be placed at second story or above
- Oriented perpendicular to the façade or at a 45 degree angle to the corner of a building

General Provisions

- Top of sign may not be higher than the top of the building

YARD



Description

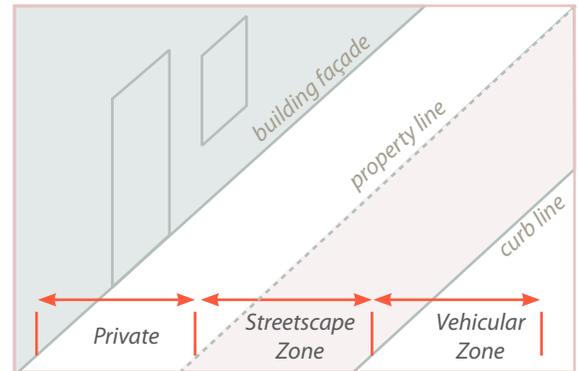
- Freestanding sign attached to the ground by one or more support structures
- Structure may be no higher than 5 feet, measured to top from the ground
- Sign hangs from the bracket or support

General Provisions

- Must be located at least 25 feet from any other yard sign
- Hanging bracket must be an integral part of the sign design

STREETSCAPE STANDARDS

This section addresses the design of the streetscape zone. The streetscape zone is the space between the curblines and property line. The purpose of these regulations is to provide a high quality and consistent pedestrian environment.



STREETSCAPE ZONE

The Streetscape Zone is comprised of three separate areas: the Pedestrian Walkway; the Street Tree/Utility Zone; and the Amenity Zone.

Pedestrian Walkway

The Pedestrian Walkway is that portion of the Streetscape Zone that is devoted to pedestrian movement. The pedestrian walkway is clear of all temporary or permanent obstructions which may impede the flow or circulation of pedestrians. The minimum width and relative location of the pedestrian walkway within the Streetscape Zone varies throughout the Form-Based Districts with the absolute minimum width being 5 feet.

Street Tree and Utility Zone

The street tree and utility zone is the area within the Streetscape zone located immediately adjacent to the curb line.

Wherever possible, canopy trees will be planted within a continuous bed no less than 5 feet wide and 10 feet long. The exposed surface below the tree shall be planted with ground cover or surfaced with permeable pavers or tree grates.

Where large areas of pervious surface treatments are not possible, structural soils shall be utilized to provide beneficial root zone conditions to improve tree health and long term survival.

Permitted elements placed within the street tree and utility zone include:

- Street trees
- Directional signage
- Traffic/ parking signage
- Fire hydrants, manholes
- Other public utilities
- Municipal garbage and recycling containers
- Bike racks
- Bus Shelter
- Wayfinding signage

Amenity Zone

The Amenity Zone is that portion of the Streetscape Zone that is accessible to the public, but may also be utilized by private property owners for temporary and incidental amenities that promote the overall pedestrian-orientated goals of the Form-Based Code Districts. When the Amenity Zone is located immediately adjacent to the building façade, a minimum 5 foot wide path shall be provided to each building entrance that is clear of all obstructions.

Permitted elements placed within the amenity zone on a temporary basis:

- Benches or other seating
- Small above ground planters or planted containers
- Foundation planting (i.e. shrubs and ground cover)
- Decorative entry pavers
- Café seating
- Place-making public art
- Bike racks

DESIGN STANDARDS FOR STREETSCAPE ZONE

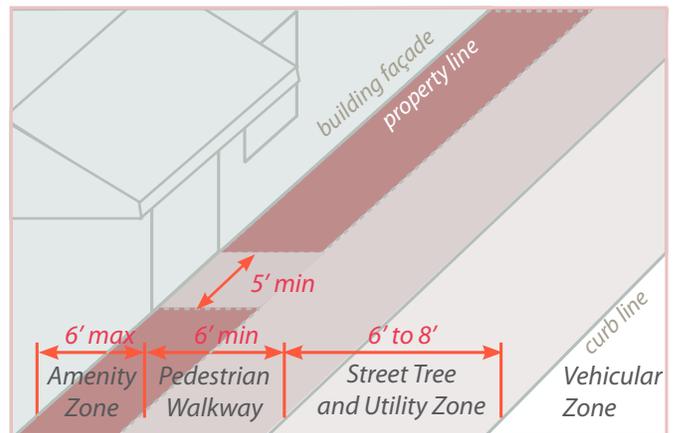
The required width and relative location of the areas within the Streetscape Zone vary by the type of street. There are two main types of streets in the Form-Based Districts, which are characterized by their usage and physical dimensions. They are Commercial/Mixed-Use Streets and Residential Streets.

Commercial / Mixed-Use Streets

Major Commercial/ Mixed-use Streets

Major Commercial/ Mixed-use Streets are characterized by:

- Width of Public Right-of-Way (property line to property line): +/- 130 feet
- Width of Vehicular Roadway (curb to curb): +/- 90 feet
- Width of Streetscape Zone (curb to property line): +/- 20 feet
- Example: Broadway

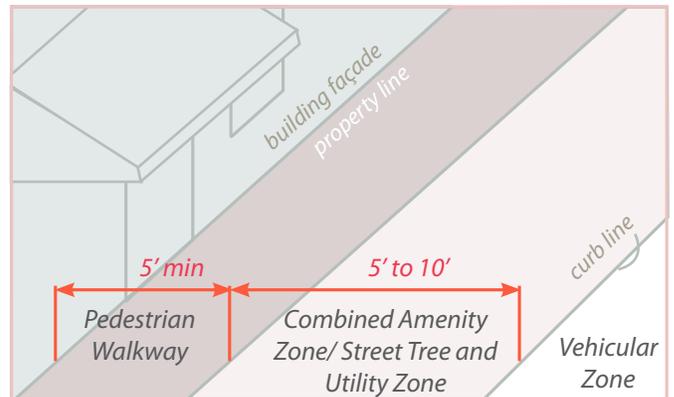


Streetscape standards for major commercial/mixed-use streets

Minor Commercial/ Mixed-use Streets

Minor Commercial/ Mixed-use Streets are characterized by:

- Width of Public Right-of-Way (property line to property line): 60 feet to 70 feet
- Width of Vehicular Roadway (curb to curb): 30 feet to 40 feet
- Width of Streetscape Zone (curb to property line): 10 feet to 20 feet
- Example: Liberty Street or Ann Street



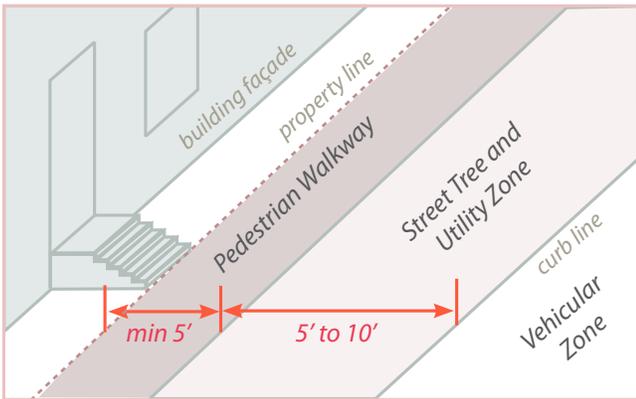
Streetscape standards for minor commercial/mixed-use streets

Residential Streets

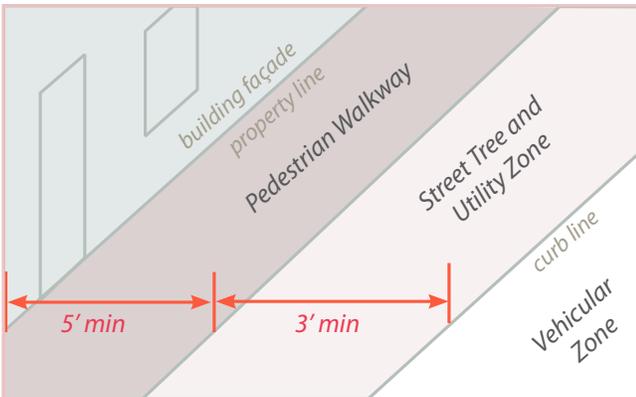
Residential streets within the FBC typically have the following characteristics

- Width of Public Right-of-Way (property line to property line): 36 feet to 60 feet
- Width of Streetscape zone (curb to curb): 20 feet to 36 feet
- Width of Pedestrian Zone (curb to property line): 8 feet to 15 feet
- Example: First Street, Parmenter Street

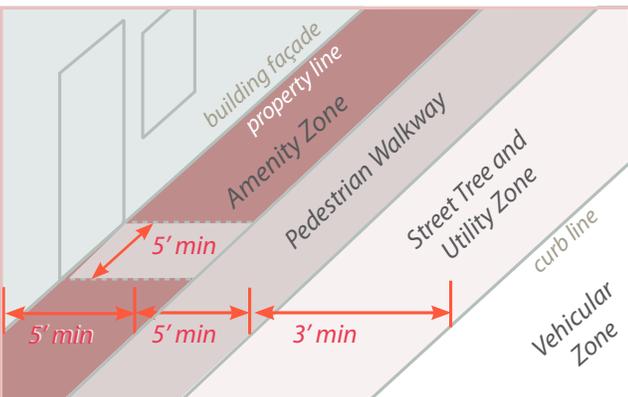
The following Streetscape Standards apply to residential streets within the Form-Based Districts.



These streetscape standards apply to residential streets that primarily feature buildings that are set back from the property line where the Streetscape Zone is approximately 10-15 feet wide. An Amenity Zone is not allowed on this type of Streetscape.



These streetscape standards apply to primarily residential streets where the building facade aligns with, or near to, the lot line and the Streetscape Zone is approximately 8 feet wide. An Amenity Zone is not allowed on this type of Streetscape.



These streetscape standards apply to primarily residential streets where the building facade aligns with, or near to, the lot line and the Streetscape Zone is greater than 10 feet wide. An amenity Zone no wider than 5 feet is permitted adjacent to the building facade, provided the minimum Pedestrian Walkway and Street Tree / Utility Zone dimensions are met and that a minimum 5 foot wide unobstructed path is provided to each building entrance.

Landscape Standards

The following landscape standards apply primarily to the public realm and to projects within the Form-Based Code districts that require a Sidewalk Permit in accordance with Chapter 263 of the City Code. When possible, they should be followed by other projects within the Form-Based Districts.

Landscape Materials

1. All plant species must be native to the region or regionally appropriate as determined by the Conservation Advisory Council.
2. All Invasive species, as identified by the United States Forest Service, Cornell Cooperative Extension, or the NYSDEC are prohibited from being planted in the Form-Based districts.
3. Replacement of invasive species with desirable hardwood species is encouraged.
4. All tree and other landscape materials shall meet the American Standard for Nursery Stock standards as published by the American Association of Nurserymen.
5. Tree and other landscape material selected for planting must be free from injury, pests, disease, nutritional disorders or root defects, and must be of good vigor in order to assure a reasonable expectation of survivability.
6. Large and medium canopy tree species shall be a minimum of 12 feet in height and have a caliper of at least 2.5 inches at time of planting.
7. Small canopy tree species should be a minimum of 4 feet in height and have a caliper of at least $\frac{9}{16}$ inches and five or more branches at time of planting.
8. Shrubs shall be a minimum of 18 inches in height and width at time of planting.

Landscape Installation and Maintenance

1. Tree and landscape materials shall be installed according to standards established by the American National Standards Institute (ANSI).
2. Structural soil shall be installed in and

around all tree wells to provide adequate underground volume for root growth. The structural soil should tie into adjacent landscaped areas to provide tree roots access to open soil.

3. Large and medium trees shall not be planted underneath or directly adjacent to overhead powerlines.
4. All plant material shall be maintained in good condition at all times in accordance with standards established by ANSI.
5. All plantings that die or are destroyed must be replaced, during the next suitable planting season.
6. Attaching lights, signage, fence rails, and any other items to trees that may result in damage to the tree is prohibited.

Design Requirements for Street Trees

1. Street trees shall help define the boundary between automobile-zones and the streetscape zone.
2. All street trees planted in the streetscape zone are to be limbed up to a minimum of 6 feet.
3. Selection of tree species shall be based upon height, canopy diameter, disease resistance and transparency.
4. Large canopy street trees should be planted approximately every 30 feet.
5. A minimum soil volume of 400 cubic feet per tree is required.
6. To provide adequate underground volume for root growth, structural soil shall be installed under the paved areas around all tree pits of a dimension no less than 5' x 10'.
7. Wherever possible trees shall be planted in continuous tree pits or planting beds to provide optimal environment for root growth.
8. Where continuous open-surface planting beds are not possible, structural soil should be used to provide a subsurface connection between tree pits to provide optimal conditions for tree root growth.

Parking and Loading Area Landscaping

These requirements apply to surface parking lots.

1. All parking and loading areas that are visible from the public right-of-way shall be screened with vegetation to minimize the visual impact of parked vehicles.
2. Shrubs and trees shall be installed in all parking lot medians to provide for semi-continuous plantings.
3. Within a surface parking lot each landscape island shall contain a minimum of 1 large canopy tree.

Lot Landscaping and Foundation Plantings

1. All permeable ground surfaces of lots in environments altered from their natural, predevelopment state and not provided for circulation of vehicles, bicycles or pedestrians shall be planted with vegetation or otherwise landscaped.
2. Except when a build-to line or minimum setback makes the provision of foundation plantings impractical, a foundation planting area shall be maintained around all structures. The foundation planting shall incorporate a mixture of trees, shrubs, and ground covers in order to soften the building façade. Foundation plantings shall not be required along any building elevation or portion thereof that contains only service and/or delivery areas that are not visible from any roadway.

List of Recommended Street Trees (adapted from NYC DPR "Tree Planting Standards", April 2008)

Large Trees-Mature Height Greater Than 50 Feet

Scientific Name	Common Name	Comments
<i>Ginkgo biloba</i>	Ginkgo	Male Only - Does Not Bear Fruit
<i>Quercus spp. 'Fastigiata'</i>	Fastigiata Oak	
<i>Liquidambar styraciflua</i>	Sweetgum	Plant Spring Only, lawn pits only
<i>Metasequoia glyptostroboides</i>	Dawn Redwood	
<i>Taxodium distichum</i>	Baldcypress	Ideal For Wet Soils
<i>Tilia cordata</i>	Littleleaf Linden	
<i>Gymnocladus dioica</i>	Coffeetree	Needs Lots of Space
<i>Gleditsia triacanthos var. inermis</i>	Honeylocust	Tolerates Tough Conditions
<i>Liriodendron tulipifera</i>	Tulip Tree	Tree Does Best in Lawn Pits
<i>Quercus rubra</i>	Northern Red Oak	Plant Spring Only
<i>Quercus bicolor</i>	Swamp White Oak	Plant Spring Only
<i>Quercus imbricaria</i>	Shingle Oak	Plant Spring Only
<i>Quercus palustris</i>	Pin Oak	Needs large tree pit
<i>Quercus phellos</i>	Willow Oak	Plant Spring Only
<i>Tilia americana</i>	American Linden	Partial Shade, Fragrant Flowers
<i>Tilia x euchlora</i>	Crimean Linden	Pest Resistant
<i>Tilia tomentosa</i>	Silver Linden	Fragrant Flowers
<i>Zelkova serrata</i>	Japanese Zelkova	

Medium Trees - Mature Height 35-50 Feet

Scientific Name	Common Name	Comments
<i>Carpinus betulus</i>	European Hornbeam	
<i>Quercus robur</i>	English Oak	Plant Spring Only
<i>Cercidiphyllum japonicum</i>	Katsura Tree	Tree Does Best In Lawn Pits
<i>Corylus colurna</i>	Turkish Filbert	
<i>Nyssa sylvatica</i>	Black Gum	Should only be planted in extremely wet sites
<i>Ostrya virginiana</i>	American Hophornbeam	Plant Spring Only
<i>Quercus acutissima</i>	Sawtooth Oak	Plant Spring Only
<i>Eucommia ulmoides</i>	Hardy Rubber Tree	Tolerates Tough Conditions
<i>Styphnolobium japonicum</i>	Scholar Tree	Tolerates Tough Conditions

Intermediate Trees - Mature Height 25-35 Feet

Scientific Name	Common Name	Comments
<i>Koelreuteria paniculata</i>	Goldenraintree	Tolerates Tough Conditions
<i>Maackia amurensis</i>	Amur Maackia	

Small Trees - Mature Height Less Than 25 Feet

Scientific Name	Common Name	Comments
<i>Amelanchier canadensis</i>	Serviceberry	
<i>Cercis canadensis</i>	Eastern Redbud	Does Best in Lawn Pits
<i>Carpinus caroliniana</i>	American Hornbeam	Plant Spring Only
<i>Fraxinus 'Leprechaun'</i>	Leprechaun Green Ash	
<i>Malus spp.</i>	Crabapple	
<i>Crataegus spp.</i>	Hawthorn	
<i>Cornus mas</i>	Cornelian Cherry	
<i>Prunus virginiana 'Schubert'</i>	Schubert Cherry	Tolerates Tough Conditions
<i>Syringa reticulata</i>	Japanese Tree Lilac	
<i>Prunus cerasifera</i>	Purpleleaf Plum	
<i>Prunus 'Okame'</i>	Okame Cherry	
<i>Prunus padus</i>	European Birdcherry	
<i>Prunus sargentii</i>	Sargent Cherry	
<i>Prunus serrulata 'Kwanzan'</i>	Japanese Flowering Cherry	
<i>Prunus x yedoensis</i>	Yoshino Cherry	Tree Does Best in Lawn Pits

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Hudson River Waterfront Public Access

A. The purpose of this section is to:

- (A.1) Promote and maintain the physical and visual public access to and along the waterfront;
- (A.2) Create a desirable relationship between waterfront development, public access areas, and the upland communities;
- (A.3) Protect the natural resources within this environmentally sensitive area.

B. The requirements of this section apply to all lots within the PWD.

C. Physical and Visual access to the Hudson River must be provided within the PWD.

D. Physical Public Access

(D.1) Public Access to the river's edge shall be provided on all lots having the Hudson River as part of its boundary. Public access shall consist of:

- (1.a) A Waterfront Area that is open to the public, in accordance with Section XX, that is a minimum of 20 feet wide as measured perpendicular from the Hudson River Shoreline
- (1.b) A publicly accessible Waterfront Walkway within the Waterfront Area that provides a minimum clear width of 12 feet

(D.2) Waterfront Areas

- (2.a) Waterfront Areas shall be accessible from a public sidewalk, street, public park, or other public place, or from another publicly accessible Waterfront Area, provided that access is provided to the Waterfront Area no less often than every 400 feet from a public place.
- (2.b) Appropriately designed and scaled down lighting, seating, and trash

receptacles shall be placed within the Waterfront Area at adequate intervals, as determined by the Planning Board.

- (2.c) Waterfront Areas shall be free of obstructions, except for landscaping, seating, trash receptacles, works of art, lighting, informational kiosks.
- (2.d) Waterfront Areas shall have signage, located at or near the walkway's connection to a public street, sidewalk, or park, that the walkway is "Open to the Public" and ADA-accessible, as well as the hours of operation (as allowed below) and the name and contact phone number of the person designated to maintain the walkway. [dedicate to City?]
- (2.e) Waterfront Areas shall be open to the public from dawn to dusk, except when the adjacent use is commercial in nature, in which case the walkway shall be open until the business is closed. Waterfront Walkways shall be open every day of the year, with the exception of closures necessary for maintenance and for no more than one day each year in order to preserve the private ownership of the area.
- (2.f) Waterfront Areas, including Waterfront Walkways shall be maintained by the property owner. The Property owner shall be required to post a maintenance bond with the Building Department for 125% of the annual cost of maintaining the walkway, as certified by a registered architect or landscape architect. Such bond shall be replaced every five years with a bond equal to 125% of the current cost of maintaining the walkway for one year.
- (2.g) Vehicle access is prohibited within the Waterfront Areas with the exception of emergency and maintenance vehicles.

3.6 HUDSON RIVER WATERFRONT PUBLIC ACCESS

- (D.3) Waterfront Walkways Minimum Design Standards. Waterfront Walkways shall:
- (3.a) Be designed in accordance with the Waterfront Design Guidelines, as adopted by the Conservation Advisory Council or the Planning Board (if such guidelines are available)
 - (3.b) Have a minimum clear and unobstructed width of 12 feet
 - (3.c) Be accessible to persons with physical disabilities as required by the ADA
 - (3.d) Connect to the Waterfront Walkways on adjacent lots

(D.4) Provision for landowner to deed land equal to waterfront Area to City so City can build/maintain?

E. Visual Access and Scenic Viewshed Protection

- (E.1) Construction within the right-of-way of the following mapped streets is expressly prohibited by this statute. The prohibition applies to the right-of-way width from the eastern most terminus of the following streets to the Hudson River shoreline.
- a. Washington Street
 - b. Broadway
 - c. Second Street
 - d. Third Street
 - e. Fourth Street
 - f. South Street
- (E2) All applications for Site Plan Approval shall be evaluated for their impacts to the following scenic views, in accordance with Section 300-xx:
- Montgomery and South Streets
 - Washington's Headquarters
 - Broadway and Colden Street
 - Newburgh Public Library
 - First and Montgomery Streets
 - Bay View Terrace

3.7 PARKING REQUIREMENTS IN THE DOWNTOWN DISTRICTS

A. Applicability

This section will apply to any new construction and any application requiring Site Plan Approval within the BC, DN, WG, and PWD districts.

B. General Provisions

- (B.1) Off-street parking that is required pursuant to this section shall be the sum total of the parking required for each use on the lot.
- (B.2) Applicants that wish to provide fewer off-street parking spaces than required by this section may apply to the Planning Board for a Special Parking Permit as described in Section XXX.
- (B.3) Nothing in this section prohibits providing more off-street parking than is required by this section. It is recognized that adequate off-street parking will likely require creative and collaborative solutions.
- (B.4) Required off-street parking does not need to be provided on the same lot as the use. However, if the parking is not on the same lot, the Applicant must demonstrate that the required parking spaces are available for a period of not less than 10 years for the exclusive use of the Applicant and that the allocated spaces are within 500 feet of the use.
- (B.5) The size, dimension, and accessibility, including space for maneuvers, of all off-street parking areas shall be approved by the Building Inspector.
- (B.6) All off-street parking shall be located behind, or to the side, of the principal building.
- (B.7) The shared use of off-street parking is encouraged by multiple uses, especially when those uses have differing times of peak demand.

C. Off-Street Parking Standards

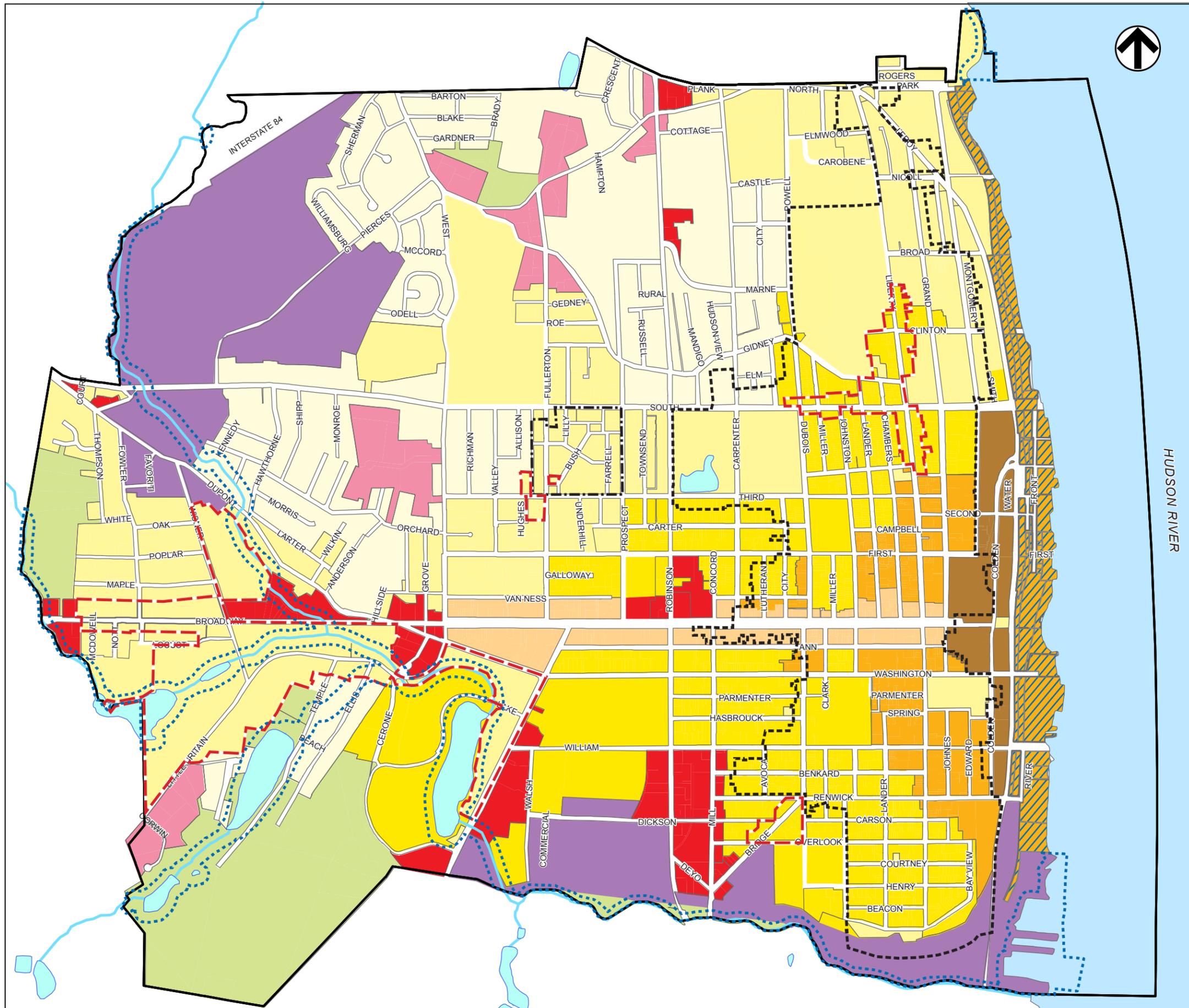
- (C.1) Residential and Commercial uses in the BC district. No off-street parking shall be required within the BC district with the exception of Civic buildings, which, during

the Special Permit application process, may be required to provide off-street parking in accordance with the "Bulk and Area Table".

- (C.2) Residential Uses in Other Districts.
 - (2.a) No off-street parking shall be required for the residential portion of any building with less than 6 units.
 - (2.b) Any building with more than 5 dwelling units must provide off-street parking for those dwelling units at a rate of 1 space for every 3 dwelling units.
- (C.3) Non-Residential Uses in the DN, WG, PWD.
 - (3.a) Uses Permitted by Right-No Site Plan Required.
 - § 1 Off-street parking shall not be required for the first 5,000 square feet of commercially occupied space (or the first 3,000 square feet of space occupied by a restaurant) within an individual building within the DN, WG, and PWD districts.
 - § 2 Off-street parking for the portion of the occupied space above the 5,000/3,000 square feet limit set above shall be calculated at the rates set in the "Bulk and Area Table" for the Commercial and Industrial District.
 - (3.b) Uses requiring site plan or special use permit.
 - § 1 Owing to the unique and highly individualized nature of these uses and of their locations within the City, the off-street parking standards for uses requiring site plan or special use permit approval shall be determined by the Planning Board.
 - § 2 In determining the amount of off-street parking required, the Planning Board shall consider:
 - a. The amount of off-street parking that the use is likely to require, given its size and location in accordance with "Bulk and Area Table" for similar uses.

3.7 PARKING REQUIREMENTS IN THE DOWNTOWN DISTRICTS

- b. The amount and availability of on-street, municipal, or private parking available in the vicinity of the Site (ie, 500 feet).
 - c. The impact that the provision of off-street parking may have on the visual quality of the zoning district.
- (C.4) Off-street loading berths shall be provided according to the schedule and regulations in Section 300.45.



- City of Newburgh Municipal Boundary
- PO-Planned Office
- Commercial District
- CD - Conservation Development
- I - Industrial
- BC - Broadway Corridor
- DN - Downtown Neighborhood
- WG - Waterfront Gateway
- PWD - Planned Waterfront District
- R-Low - Residential, Low Density
- R-Med - Residential, Medium Density
- R-High - Residential, High-Density

- Overlay Districts:
- Waterbody Protection Overlay
 - Neighborhood Commercial Overlay
 - Historic Overlay
 - Colonial Terraces Overlay

FOR DISCUSSION
PURPOSES ONLY

