Certify To: Budget, Comptroller, Law, UED, Planning Board **Ordinance: 4**

City of Utica
Department of Legislation
In Common Council

Utica, NY
February 03, 2021

Sponsored By: Councilmembers McNiel, Williamson

ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF UTICA

WHEREAS, pursuant to New York General City Law § 20, the City of Utica is authorized to adopt zoning regulations; and

WHEREAS, the City of Utica last conducted a significant update to its zoning map and zoning ordinance in 1994; and

WHEREAS, the City of Utica Common Council adopted a new comprehensive plan for the City in late 2011 and a zoning map and zoning ordinance are two of the primary tools by which communities can implement a comprehensive plan; and

WHEREAS, the City of Utica was awarded a $168,750 grant from the New York State Energy Research and Development Authority (NYSERDA) through its Cleaner, Greener Communities program to undertake an update to its zoning ordinance; and

WHEREAS, pursuant to said grant and in conjunction with Elan Consulting, the Department of Urban and Economic Development has drafted an updated Zoning Ordinance that will support sustainable growth of the city's neighborhoods, support community business and enterprise, and ensure the health and safety of the citizens of the City of Utica; and

WHEREAS, a public hearing on the proposed Zoning Ordinance was held on **December 16, 2020**; and

WHEREAS, by resolution dated **July 15, 2020** and pursuant to Section 2-29-123 of the City Code, the Planning Board has extensively reviewed the proposed Zoning Ordinance and finds it is acceptable and that its adoption is in the best interest of the City; and

WHEREAS, by resolution dated **July 15, 2020**, the Common Council of the City of Utica identified revisions to the Zoning Code as Type I action pursuant to the New York State Environmental Quality Review Act (SEQRA), identified itself as lead agency, and began the coordinated review process; and

WHEREAS, by resolution dated **July 15, 2020**, the Common Council made a negative declaration pursuant to SEQRA, finding no negative environmental impacts as a result of adopting this Zoning Ordinance; now be it

ORDAINED, that Ordinance No. 313 of 1994 and all amendments thereto are hereby rescinded, annulled, and superseded by this Ordinance; and

BE IT FURTHER ORDAINED, that the Common Council of the City of Utica, New York, hereby establishes zoning regulations for the City of Utica, New York and provides for the administration and enforcement thereof pursuant to General City Law, Section 20 as follows:

SEE ATTACHED EXHIBIT A
OFFICIAL COPY ON FILE IN THE CITY CLERKS OFFICE

BE IT FURTHER ORDAINED, that the effective date of this Ordinance shall be **February 03, 2021,** and until such time as this Ordinance does become effective, Ordinance 313 of 1994, as amended, shall apply; and

BE IT FURTHER ORDAINED, that any structure for which a permit has been lawfully granted or any use for which certificate of occupancy has been issued prior to the effective date of this Ordinance, may be completed or occupied in accordance with any approved plans, provided construction is started or occupancy established within ninety (90) days of the issuance of said building permit or certificate of occupancy, and all construction is diligently prosecuted to completion; and

BE IT FURTHER ORDAINED, that prior to publication, eCode 360 of Rochester, New York, is hereby authorized to renumber the sections and subdivisions of this ordinance to conform to the numbering system used in the existing Utica City Code.

Yeas: McNiel, Burmaster, Friend, Meola, Moody, Betrus, Williamson, LoMedico, DiBrango – 9

Nays: 0 **Adopted.**

STATE OF NEW YORK, CITY OF UTICA)
City Clerk's Office) ss.
)

I hereby certify that I have compared the foregoing copy of an Ordinance of the Common Council with the record of proceedings of the Common Council of said City of Utica, duly made and on file in this office, and that same is a correct transcript therefrom and of the whole of said Ordinance.

In TESTIMONY WHEREOF, I hereunto affix the Corporate Seal of said City, and subscribe my name, this 4th day of February, 2021

Melissa A. Sciortino

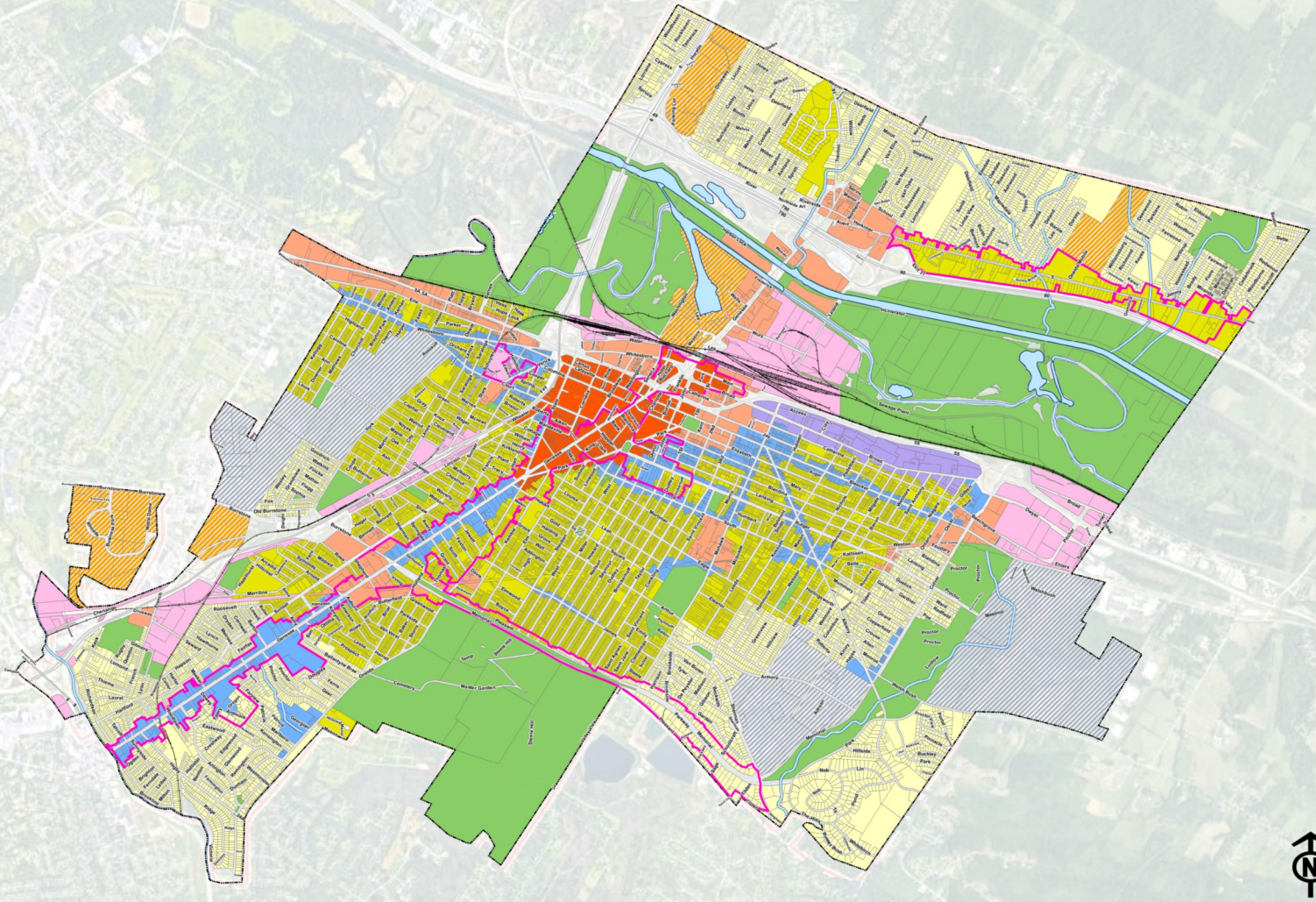
City Clerk

DRAFT

CODE GREEN ZONING UPDATE

Prepared for: The City of Utica, NY

FINAL DRAFT: February 02, 2021



PREPARED BY:

ELAN.3 CONSULTING

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City of Utica
Code Green Zoning Update
DRAFT Version: 02/02/2021

Contents

ARTICLE I In General 8

Sec. 2-29-1 Title. 8

Sec. 2-29-2 Conflict. 8

Sec. 2-29-3 Minimum requirements 8

Sec. 2-29-4 Purpose and intent 8

Sec. 2-29-5 Periodic review of zoning chapter. 9

Sec. 2-29-6 Severability. 9

Sec. 2-29-7 Definitions 9

ARTICLE II Administration and Enforcement 35

DIVISION 1 Generally 35

Sec. 264-120 Enforcement. 35

Sec. 264-121 Building permits. 35

Sec. 264-122 Certificates of occupancy. 35

Sec. 264-123 Inspections; right of entry 35

Sec. 264-124 Certification by Commissioner of Code Enforcement. 35

Sec. 264-125 Liability. 36

Sec. 264-126 Fees. 36

DIVISION 2 Planning Board 36

Powers and Duties 36

DIVISION 3 Zoning Board of Appeals 37

Sec. 2-29-66 Powers and duties. 37

Sec. 2-29-67 Variance procedure 38

Sec. 2-29-68 Hearings open to the public. 40

Sec. 2-29-69 Rehearing. 41

DIVISION 4 Scenic and Historic Preservation District 41

Sec. 2-29-291 Purpose. 41

Sec. 2-29-292 Scenic and Historic Preservation Commission..... 41
Sec. 2-29-293 Designation of landmarks and historic districts. 43
Sec. 2-29-294 Certificate of appropriateness. 43
Sec. 2-29-XX Planning Board Coordination: 45
Sec. 2-29-295 Hardship..... 45
Sec. 2-29-296 Administration and enforcement. 46
DIVISION 5 Floodplain Administration 47
Sec. 2-29-XXX Floodplain Administrator..... 47
Sec. 2-29-XXX Floodplain Development Permits..... 49
Sec. 2-29-XXX Application Procedures 50
DIVISION 6 Nonconforming Uses, Structures and Lots 51
Sec. 2-29-81 Statement of intent. 51
Sec. 2-29-82 Non-Conforming Uses 51
Sec 2-29-83 Non-Conforming Structures 52
Sec.2-29-84 Non-Conforming Lots 52
Sec. 2-29-85 Certificate of nonconformity. 53
DIVISION 7 Procedures for Appeals and Applications..... 54
Sec. 2-29-101 Forms for appeals and applications..... 54
Sec. 2-29-102 Filing of applications. 54
Sec. 2-29-104 Processing of applications. 54
Sec. 2-29-105 Time of appeal. 54
Sec. 2-29-106 County approval. 54
Sec. 2-29-107 Conduct of public hearings. 54
Sec. 2-29-108 Required notice for public hearing. 55
DIVISION 8 Amendments..... 56
Sec. 2-29-121 Authorization. 56
Sec. 2-29-122 Initiation of amendments. 56
Sec. 2-29-123 Procedures. 57
Sec. 2-29-124 Hearing on proposed amendment; notice thereof. 57
Sec. 2-29-125 Adoption of amendment. 57
Sec. 2-29-126 Protest petition. 57
DIVISION 9 Alternates..... 57

Sec. 2-29-28 Appointment of alternate members. 57
DIVISION 10 Training and Attendance 58
Sec. 2-29-124 Purpose and intent. 58
Sec. 2-29-125 Minimum attendance requirements established. 58
Sec. 2-29-126 Minimum training requirements established. 58
Sec. 2-29-127 Removal for noncompliance. 59
Sec. 2-29-128 Lack of training not to affect validity of actions. 60
Sec. 2-29-129 Removal for cause. 60
ARTICLE III Zoning Map and Districts 61
Sec. 2-29-132 Zoning Map. 61
Sec. 2-29-133 District boundaries. 61
Sec. 2-29-134 Classification of Districts 61
Sec. 2-29-135 District Purpose 62
ARTICLE IV District Regulations 64
DIVISION 1 64
Sec. 2-29-152 In General. 64
Sec. 2-29-153 Plans and buildings previously approved. 64
Sec. 2-29-154 Exemptions. 64
Sec. 2-29-155 Department of Urban and Economic Development Review 64
Sec. 2-29-156 Use Table 65
Sec. 2-29-156 Form-Based Dimensional Tables 69
ARTICLE V Sign Regulations 85
DIVISION 1 In General. 85
DIVISION 2 Specific Regulations Regarding Types of Signs 88
DIVISION 3 Administration and Enforcement 93
ARTICLE VI Off-Street Parking and Loading Requirements 95
1. Applicability 95
2. Exceptions from parking requirements 95
3. Off-Street Parking Calculations 95
4. Site Plan Review Standards for On-Site Parking 95
5. Required Parking Spaces 96
6. Off-Street Parking Provisions 98

7. Parking Lot Dimensional Standards:..... 100
8. Low Impact Development Parking Lot Design Standards: 101
9. Landscaping Standards for Parking Lot Stormwater Management 101
Off-Street Loading Requirements..... 103
ARTICLE VII General Regulations 104
DIVISION 1 General Regulations..... 104
Sec. 2-29-581 Lot regulations. 104
Site Triangles. 104
Frontage on separate streets 104
Sec. 2-29-582 Height regulations. 104
Sec. 2-29-583 Yard regulations..... 104
Sec. 2-29-584 Private swimming pools..... 105
Sec. 2-29-585 Fence regulations. 106
Sec. 2-29-586 Waste Receptacle regulations. 106
Sec. 2-29-587 Mechanical equipment. 108
DIVISION 2 Landscaping and Screening Standards..... 108
Sec. 2-29-411 Purpose and intent. 108
Sec. 2-29-412 Applicability. 109
Sec. 2-29-413 General requirements. 109
Planting Standards..... 109
Sec. 2-29-421 Size and preparation of planting pits..... 109
Sec. 2-29-422 Setting plants and backfilling..... 109
Sec. 2-29-423 Handling plants during planting. 110
Sec. 2-29-424 Forming water rings or saucers. 110
Sec. 2-29-425 Fertilizing. 110
Sec. 2-29-426 Mulching. 110
Sec. 2-29-427 Staking and guying. 111
Sec. 2-29-428 Maintenance of landscaping. 111
Sec. 2-29-429 Protection of existing vegetation. 111
DIVISION 3 Land/Soil Removal 111
DIVISION 4 Performance Standards 112
DIVISION 5: Satellite Dish. 112

DIVISION 6: Floodplain Regulations 113
Sec. 2-29-XXX Purpose and Intent 113
Sec. 2-29-XXX General Provisions 113
Sec. 2-29-XXX Established Areas of Special Flood Hazard 114
Sec. 2-29-XXX Construction and Development Standards Applicable to All Structures 114
Sec. 2-29-XXX Construction and Development Standards Applicable to Residential Structures. 116
Sec. 2-29-XXX Construction and Development Standards Applicable to Nonresidential Structures. 117
Sec. 2-29-XXX Subdivision Proposals 117
Sec. 2-29-XXX Manufactured homes 118
Sec. 2-29-XXX Recreational vehicles 118
ARTICLE VIII Telecommunications Facilities Regulations 119
DIVISION 1 Telecommunications Facilities Regulations 119
Sec. 2-29-469 Purpose 119
Sec. 2-29-470 Intent. 119
Sec. 2-29-472 General criteria. 119
ARTICLE IX Hydraulic Fracturing Brine Prohibition 127
Sec. 2-29-481 Definitions 119
Sec. 2-29-482 Use of brine prohibited 119
Sec. 2-29-483 Statement to be included in bid 119
Sec. 2-29-484 Duty of employees to be familiar with provisions 119
Sec. 2-29-485 Penalties for offenses 119
ARTICLE X Site Plan Review and Special Use Permits Submission Requirements 130
DIVISION 1 Site Plan Review General Requirements 130
Sec. 2-29-541 Applicability. 130
Sec. 2-29-543 Exceptions and waivers. 130
DIVISION 2 Site Plan Preparation 130
Sec. 2-29-551 General. 130
Sec. 2-29-552 Required information. 131
DIVISION 3 Plan Review 132
Sec 2-29-561 General Plan Review 132

Sec. 2-29-562 Sketch plan review. 132
Sec. 2-29-563 Application for preliminary site plan approval. 133
Sec. 2-29-564 Preliminary site plan review criteria. 133
Sec. 2-29-565 Consultant review. 133
Sec. 2-29-566 Public hearing. 133
Sec. 2-29-567 Planning Board action. 134
Sec. 2-29-569 Final plan review. 134
Sec. 2-29-570 Required referral. 135
Sec. 2-29-571 Final action. 135
DIVISION 4 Special Use Permit 135
Purpose 135
Application Content 136
Criteria 136
Special Use Permit Review 136
Planning Board Action 136
Special Use Permit expiration, revocation and enforcement 137
ARTICLE XI Supplemental Regulations 138
Adult Uses: 138
Agriculture, Urban 138
Veterinary Clinic/Hospital 139
Automotive uses. 140
Commercial, Indoor Recreation and Outdoor Recreation: 141
Retail, Neighborhood 142
Dwelling, Accessory Units. 142
Emergency Services 142
Essential Services. 142
Geothermal Energy Systems 143
Home Occupations 143
Live-Work. 144
Kennel, Commercial and Dog Daycare 145
Municipal/Civic, Utility Use (see existing Community Facilities). 145
Storage Yard 145

Solar Energy Systems 145
Vending Lots 149
I/IMU Buffer Requirements 149
Article XII Planned Development District 150
Sec. 2-29-271 Purpose and intent. 150
Sec. 2-29-273 Origination of proposals for change of zone to planned development. 150
Sec. 2-29-274 Procedure on proposals for projects in Planned Development Districts. 151
Sec. 2-29-275 Procedures before the Council. 152
Sec. 2-29-276 Expiration. 152
Sec. 2-29-277 Changes and Amendments 153

Chapter 2-29

Zoning

GENERAL REFERENCES

Buildings and building regulations — See Ch. 2-6.
Flood damage prevention — See Ch. 2-10.
Housing standards — See Ch. 2-12.
Licenses, permits and miscellaneous business regulations — See Ch. 2-14.
Planning and development — See Ch. 2-20.
Signs — See Ch. 2-21.
Subdivisions — See Ch. 2-24.
Stormwater management — See Ch. 2-30.

ARTICLE I
In General

Sec. 2-29-1 Title.

A chapter regulating and restricting the location, construction, alteration and use of buildings and land in the City of Utica, New York, pursuant to the zoning provisions of the General City Law of the State of New York. This chapter shall be known and may be cited as the "Zoning Ordinance of the City of Utica."

Sec. 2-29-2 Conflict.

Whenever any provision of this chapter imposes a greater requirement or a higher standard than is required in any state or federal statute, the provision of this chapter shall govern. Whenever any provision of any state or federal statute imposes a greater requirement or a higher standard than is required by this chapter, the provision of such state or federal statutes shall govern.

The City Common Council hereby declares its legislative intent to supersede any provision of any local law, rule, regulation, or provision of the General City Law inconsistent with this Chapter. The General City Law provisions intended to be superseded include those portions include Section 27 and 81 as they apply to the attendance requirements contained herein. The Courts are hereby directed to take notice of this legislative intent and apply it in the event the City has failed to specify any provision of law that may require supersession. The City Common Council hereby declares that it would have enacted this Chapter and superseded such inconsistent provision had the need to do so been apparent.

Sec. 2-29-3 Minimum requirements

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for necessary promotion of the public health, safety, convenience, comfort, prosperity or general welfare. It is not the intent of this chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use and dimensions of buildings or premises or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this chapter shall govern, except where expressly qualified by this chapter.

Sec. 2-29-4 Purpose and intent

A. This chapter is intended to promote the health, safety and general welfare of the public and to be a guide for the orderly development of the City.
B. To accomplish these ends, this chapter is designed:

1. To create and maintain conditions under which people and their environment can exist in productive and enjoyable harmony while fulfilling the social, economic and other requirements of present and future generations;
2. Facilitate the creation of a convenient, attractive and harmonious community;
3. To provide for City growth that is consonant with the efficient and economic use of public funds and environmental resources;
4. To recognize the need for housing, industry and business in the City's future growth;
5. To provide residential areas with healthy surroundings for family life;
6. To protect against destruction of or encroachment upon historic and scenic areas;
7. To encourage economic development activities that provide desirable employment and a broad tax base;
8. To encourage the preservation of floodplain areas, stream valleys, steep slopes, lands of natural beauty, scenic vistas, and other similar areas and to ensure that development in such area is well controlled;
9. To protect against the following: overcrowding of land; undue intensity of noise; air and water pollution; undue density of population in relation to available community facilities; obstruction of light and air; danger and congestion in travel and transportation and loss of life, health, or property from fire, flood or other dangers;
10. To promote housing of such type, size and cost as will allow City residents of every economic condition to reside in safe, sanitary dwelling units.
11. To encourage growth and development in accord with the City of Utica Master Plan.

Sec. 2-29-5 Periodic review of zoning chapter.

From time to time, the Planning Board shall reexamine the provisions of this chapter and the location of district boundary lines and shall submit a report to the Common Council recommending changes or amendments, if any, which may be desirable in the interest of public welfare, convenience and necessity.

Sec. 2-29-6 Severability.

If any clause, sentence, paragraph, 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, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 2-29-7 Definitions

(a) Generally. The definitions contained in this section shall be interpreted as defined herein, except when the context clearly indicates otherwise. Any terms not defined herein shall have ascribed to them their ordinarily accepted meanings and/or such as the context herein may imply.

(b) Construction. The following rules of construction apply to the test of this chapter:

(1) The particular shall control the general.

(2) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

(3) The word "shall" is mandatory and the word "may" is permissive.

(4) Words used in the present tense include the future; words used in the singular number include the plural, and the plural the singular, unless context clearly indicates the contrary.

(5) The word "building" includes "structure" and any part thereof.

(6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for."

(7) The word "person" includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.

(8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:

a. "And" indicates that all the connected items, conditions, provisions or events shall apply.

b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

c. "Either . . . or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(9) "Abut" means having a common boundary or relationship at either a common property line, street or alley.

(10) "Adjoin" means having a common boundary or relationship at a common property line.

(c) List of definitions.

ACCESSORY STRUCTURE

A structure subordinate to the principal building on the lot and used for purposes customarily incidental to that of the principal building. Where an accessory structure is attached to the principal building in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main building.

ACCESSORY USE

A use which is customarily incidental and subordinate to the principal use on a lot, and located on the same zoning lot, except where superficially provided. An accessory use may not be accessory to another accessory use.

ADDICTION CLINIC

A facility where people are not lodged overnight but are admitted for examination and/or treatment on a daily basis.

ADDICTION CLINIC, EXTENDED

A facility where people are admitted and lodged overnight for examination and/or treatment for an extended period of time.

ADULT USE

Includes adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult cabarets and other premises, enterprises, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas which are capable of being seen by members of the public.

ADULT BOOKSTORE

A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

ADULT CABARET

A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas.

ADULT MINI-MOTION PICTURE THEATER

A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons herein.

ADULT MOTION PICTURE THEATER

A building or portion of a building with a capacity of 50 or more persons used for

presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical area for observation by patrons therein.

SPECIFIED ANATOMICAL AREAS

(1) Less than completely and opaquely covered:
a. Human genitals.
b. Pubic region.
c. Buttocks.
d. Female breast below a point immediately above the top of the areola; and
(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

(1) Human genitals in a state of sexual stimulation or arousal.
(2) Acts of human masturbation, sexual intercourse or sodomy.
(3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
(4) No obscene work shall be allowed.

AGRICULTURE

The production, keeping or maintenance of plants and animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees, forest products and forestry uses; fruits of all kinds, including grapes, nuts, berries and vegetables.

AGRICULTURE, PERSONAL

A use of land where an individual cultivates edible plant crops for personal use or donation. Crops shall include any crop in its raw or natural state, which comes from a plant that will bear edible fruits or vegetables. It shall not include marijuana or any unlawful crops or substances.

AGRICULTURE, URBAN

The production, keeping or maintenance of plants and animals in urban or developed areas, with animal production, keeping, or maintenance limited to chickens, rabbits, and bees.

ALLEY

A dedicated public thoroughfare affording a secondary means of access to abutting property and not intended for general traffic circulation.

ALTERATION

As applied to a building or structure, means a change or rearrangement in the structural parts, or in the entrance and exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

AMUSEMENT AND RECREATIONAL OR ENTERTAINMENT, INDOOR

A recreation facility designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreation activities which is operated within a building as a business and open to the general public for a fee. Gaming or gambling establishments are not considered indoor recreation facilities.

AMUSEMENT AND RECREATIONAL OR ENTERTAINMENT, OUTDOOR

Commercial activities conducted outdoors for the purposes of recreation and amusement including, but not limited to, amphitheaters, driving ranges, miniature golf, swimming pools, tennis courts, motorized cart and motorcycle tracks, firing ranges, water parks, amusement parks, batting cages, trampoline facilities, and paintball courses.

ANIMAL CLINIC/VETERINARY HOSPITAL

A facility rendering surgical and medical treatment to animals and having no limitation on overnight accommodations for such animals. Crematory facilities shall not be allowed in a veterinary hospital.

AUTO REPAIR

Engine repair, electrical work, tune-ups and all other passenger vehicle repair activities not specifically listed in the definition of "autobody repair."

AUTOBODY REPAIR

Any area of land, including structures thereon, that is used or designed to be used for the maintenance, servicing, repair or painting of vehicles, rebuilding engines or transmissions, bodywork, framework, or welding.

AWNING

Any non-rigid material that is supported by a frame that is attached to an exterior wall.

BAR/RESTAURANT

An establishment whose principle business is the selling of unpackaged food or beverages to the customer in a ready-to-consume state, where the customer usually consumes these foods or beverages while seated at tables or counters located within the building including microbreweries producing less than 15,000 barrels of beer per year

BASEMENT/CELLAR

The portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is less than or equal to the vertical distance from the average grade to the ceiling (that is equal to or more than halfway above ground level). This portion is not a completed structure and serves as a substructure or foundation for a building.

BED-AND-BREAKFAST

A structure containing up to five sleeping rooms which are designed or intended for occupancy by or which are occupied by one or more guests for compensation, but in which no provision is made for cooking. Separate sanitary facilities may or may not be provided for each room and one or more meals for each guest may be included at the discretion of the owner, who shall be a resident of the bed-and-breakfast establishment.

BREWERY

An industrial use that brews ales, beers, meads, and/or similar beverages on site. Breweries are classified as a use that manufactures more than 60,000 barrels of beer per year.

BREWERY, MICRO

A brewery that produces less than 60,000 barrels of beer per year with 25% or more of its beer sold on-site.

BUILDING

Any structure having a roof supported by columns or walls, used or intended to be used for the shelter, housing or enclosure of persons, animals or chattels. Structural connections, such as a covered walkway or canopy porch, roof, foundation walls, tunnel connections above or below ground, enclosed or otherwise, shall not be construed as creating a single building from two or more buildings. Where divided by party walls, each portion of a building shall be deemed a separate building except as otherwise provided herein.

BUILDING AREA

The total of areas taken on a horizontal plane at the main grade level of structures exclusive of uncovered porches, terraces and steps.

BUILDING HEIGHT

The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs, to the deck line of mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

BUSINESS

The engaging in the purchase, sale, barter, exchange or storage of goods, wares or merchandise or the maintenance or operation of offices or recreational or amusement enterprises, or the furnishing of services for compensation.

BUSINESS AND COMMERCIAL SCHOOLS

Noncollegiate, public or private institutions offering specialized business, commercial and/or clerical courses or similar curricula, but not academic training.

BOARDING OR ROOMING HOUSE

A building other than a hotel, bed-and-breakfast, inn, fraternity, sorority, or dormitory where lodging and/or meals for five or more roomers or boarders or guests are served for compensation on a monthly basis.

CARPORT

A permanent roofed structure, which may or may not be attached to the principal structure, open on at least two sides and used exclusively for the storage or parking of not more than two motor vehicles.

CAR WASH

Any building or premises, or portion thereof, the use of which is devoted to the business of washing automobiles for a fee, whether by automated cleaning devices or otherwise.

CEMETERY

Land used or intended to be used for the burial of deceased human beings and dedicated for cemetery purposes.

CENTER LINE, ROAD

A line lying midway between the right-of-way lines of a street.

CLINIC

A facility where people who are not lodged overnight are admitted for examination and/or treatment by a group of physicians, dentists or similar health care professionals.

CLUB, PRIVATE

A nonprofit association of persons, who are bona fide members, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

COMMUNITY CENTER

A cultural, educational or recreational facility designed for neighborhood-wide or City-wide use and operated on a not-for-profit basis.

COMMUNITY GARDEN

A community garden is any piece of land (publicly or privately held) that is cultivated by a group of people rather than a single family or individual.

COMMUNITY RESIDENTIAL FACILITY

A residential facility for the mentally disabled operated pursuant to the New York State Mental Hygiene Law and regulation promulgated thereunder, including a half-way house and any other such facility as defined in such regulations and any similar facilities operated under the supervision of federal departments and agencies.

COMPOSTING FACILITY

A facility where organic matter that is derived primarily from off-site is to be processed by biological decomposition and/or is processed for commercial purposes. Activities of a composting facility may include management, collection, transportation, staging, composting, curing, storage, marketing, or use of compost.

CONVENTION CENTER

A commercial facility used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption. This term does not include banquet halls, clubs, lodges, or other meeting facilities of private or non-profit groups that are primarily used by group members.

CORNICE

A horizontal molded projection which crowns or finishes the wall of a building.

DAY CARE CENTER

A site, building, or place designed and/or operated to provide day care and/or instruction for minors or adults of twelve or more persons and operated on a regular basis for a fee. All state licensing requirements are to be met and all operation is to be in accordance with New York State Department of Social Services regulations.

DAY CARE, DOG

A site, building, or place designed and/or operated to provide day care for dogs on a regular basis for a fee on a daily basis without boarding.

DISPATCH SERVICE OR FREIGHT TRUCK TERMINAL

Any premises used by a motor freight company as a carrier of goods that is the origin or destination point of goods being transported, for the purpose of dispatching, storing, transferring, loading and unloading goods.

DISTRICT

A portion of the incorporated territory of the City within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter.

DRIVEWAY

That space specifically designated and reserved on the site for the movement of vehicles from one site to another or from a site to a public street.

DRIVE-THROUGH, ACCESSORY

An establishment that by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their vehicles**.**

DRY CLEANING AND LAUNDRY ESTABLISHMENT

An establishment for the mechanical cleaning of garments, articles or goods of fabric for retail customers. A dry cleaning and laundry establishment does not include a laundry or laundromat which provides self-service type washing and drying for use of retail customers or dry cleaning pickup establishments where no mechanical cleaning is taking place which are considered service establishments.

DWELLING, ACCESSORY UNIT

A second dwelling unit either in or added to a single-family dwelling, or in a separate accessory structure on the same lot as the principal building, for use as a complete, independent living facility with provision within the accessory dwelling unit for cooking, eating, sanitation, and sleeping. Such a dwelling shall be clearly accessory and incidental to the principal dwelling.

DWELLING, APARTMENT BUILDING

A building designed exclusively for or occupied exclusively by seven or more families living independently of each other in seven or more separate dwelling units.

DWELLING, ATTACHED

A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

DWELLING, DETACHED

A dwelling which is surrounded by open space on all sides of the lot.

DWELLING, MULTI-FAMILY

A building designed exclusively for or occupied by three to six families living independently of each other in separate dwelling units.

DWELLING, ONE-FAMILY

A building designed exclusively for and occupied exclusively by one family in one dwelling unit.

DWELLING, TWO-FAMILY

A building designed exclusively for or occupied exclusively by no more than two families living independently of each other in two separate dwelling units

DWELLING UNIT

One or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking and sanitation for use by one family.

EMERGENCY SERVICES

Facilities operated by public agencies including fire stations, other fire prevention

and firefighting facilities, emergency medical technicians and ambulance substations and headquarters, and police and sheriff substations and headquarters, including interim incarceration facilities.

ERECTED

Includes built, affixed, hung, placed, suspended, attached, constructed, altered, reconstructed, moved upon or any physical operations on the premises which are required and the like shall be considered a part of erection, as will the painting of wall signs.

ESSENTIAL SERVICES

The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electric, steam, fuel or water transmission of distribution system collection, communication, supply or disposal system including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety and welfare.

EXCAVATION

Any breaking of ground, except common household gardening and ground care.

FAÇADE

The entire area of a building exterior elevation or side, extending from the roof or parapet to the ground, and from one corner of the building to another, but does not include any structure or non-structural elements which extend beyond the roof.

FAMILY

(1) Shall mean:

a. Up to four persons occupying a dwelling unit.

b. More than four persons occupying a dwelling unit and living together as a traditional family, or the functional equivalent of a traditional family.

(2) It shall be presumptive evidence that more than four unrelated persons living together in a single dwelling unit do not constitute the functional equivalent of a traditional family.

(3) In determining whether individuals are living together as the functional equivalent

of a traditional family, the following criteria must be present:

a. The group is one which in theory, size, appearance, structure and function resembles a traditional family unit;

b. The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family;

c. The group shares expenses for food, rent or ownership costs, utilities and other household expenses;

d. The group is permanent and stable. Evidence of such permanency and stability may include:

1. The presence of minor dependent children regularly residing in the household who are enrolled in local schools;

2. Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration and filing of taxes;

3. Members of the household are employed in the area;

4. The household has been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units;

5. There is a common ownership of furniture and appliances among the members of the household; and

6. The group is not transient or temporary in nature.

e. Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

FAMILY DAY CARE

A dwelling wherein day care services are provided for children of any age during part of a twenty-four-hour day. The director of this facility will be a resident of the premises where these services are to be provided. All state licensing requirements are to be met and all operation is to be in accordance with New York State Department of Social Services regulations.

FENCE

A structure designed to or which, in fact, does divide, enclose or screen a parcel of land or portion thereof.

FLOOR AREA, GROSS

The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features.

FLOOR AREA, NET

The actual occupied area not including unoccupied accessory areas such as corridors, stairways, toilet rooms, mechanical rooms and closets.

FRATERNITIES/SORORITIES

A club or social activity officially associated with and recognized and supervised by an institution for higher education whose membership is limited exclusively to students of the said institution.

FUNERAL HOME

A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation, funeral homes do not include crematories.

GARAGE, PRIVATE

A completely enclosed accessory structure for the storage only of the private motor vehicles of the family's resident upon the premises.

GASOLINE/CONVENIENCE STATION

Any area of land, including structures thereon, that is used for the sale of gasoline, oil or other motor vehicle fuel, including a convenience store, provided that the store is an integral part of the gasoline station, excluding towing and automobile service. Auto-body repair, auto repair, vehicle sales/rental/storage shall not be deemed permissible accessory uses of a "gasoline/ convenience station."

GEOTHERMAL

Equipment for the collection of geothermal energy or its conversion to electrical energy for use on the same property, or for incidental sale to a public utility, when that equipment is accessory to a principal use of the property.

GRADE

The elevation established for the purpose of regulating the number of stories and the height of buildings. Grade shall be the mean level of the finished surface of the ground adjacent to the exterior walls of the buildings.

GREENHOUSE

A business whose principal activity is the selling of plants grown on the site and having outside storage, growing or display.

GROUP HOME

See Community Residential Facility.

HEALTH/SPORT CLUB

A building or portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities or other customary and usual recreational activities, operated for profit or not for profit and which can be open only to bona fide members and guests of the organization or open to the public for a fee.

HOME OCCUPATION, MAJOR

Any use which is clearly incidental to the use of the dwelling unit as a place of residence, which is conducted primarily within a dwelling unit or its accessory building(s) but which may require the storage of machinery and equipment on the lot, or where office activities are conducted within the house or accessory building, but the services offered are conducted primarily off premises. Examples include plumbing shops, electrical repairs shops and repair services, but are not limited to the above.

HOME OCCUPATION, MINOR

An occupation carried on in a dwelling unit by the resident thereof, provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof. Examples include music teachers, lawyers, dentists, plumbers, electricians and physicians, but are not limited to the above.

HOTEL/MOTEL

A commercial facility providing transient lodging containing six or more units and where the customary uses such as restaurant facilities, meeting rooms, recreation facilities playgrounds, game rooms, snack bars, and leisure rooms are provided for use by the lodger and the general public, including resorts, tourist cabins.

See definition in Article **V** of this chapter.

IMPERVIOUS SURFACE

Any hard surface, man-made area that does not readily absorb or retain water.

INDUSTRIAL FACILITY

Uses engaged in the manufacture, predominantly (or generally) from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products. Further, “light industrial” shall mean uses such as the manufacture of electronic instruments, preparation of food products and alcoholic beverages, pharmaceutical manufacturing, research and scientific laboratories, or the like. “Light industrial” shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal, or related industries.

INN

A commercial facility or hostel, resembling traditional residential character with common access providing transient lodging and meals which is characterized by common dining facilities and leisure rooms available for use by lodgers and limited general public with no more than 12 guest rooms.

JUNK VEHICLE

Any motor vehicle, trailer or semitrailer which is inoperable and which by virtue of its condition cannot be economically restored. In addition, any vehicle may be presumed to be a junk vehicle when:

(1) Valid license plates are not displayed or license plates have been expired for more than 60 days; or

(2) Valid state inspection stickers, as required for the use of the vehicle, are not displayed or have been expired for more than 60 days; or

(3) The vehicle remains in an inoperable condition for more than 90 days.

JUNKYARD OR SALVAGE YARDS

Any property or place where the business of a junk dealer or salvage dealer buys, exchanges, collects, receives, stores, accumulates, sells or otherwise transfers junk or salvage materials — other than wholly within an enclosed building. In addition, a junk yard shall include property used for the storage of impounded, abandoned, partially dismantled, obsolete or wrecked automobiles — other than wholly within an enclosed building.

KENNEL, COMMERCIAL

Any lot or premises, or portion thereof, on which more than four dogs, cats, and other household domestic animals over four months of age are kept for sale, or on which more than two such animals are boarded for compensation.

LANDSCAPED AREA

An area in grass, trees, shrubs or other natural greenery, or containing any form of landscaping or architectural treatment.

LIGHTWELL

An external open area or vertical shaft within a building, which may be unroofed or roofed with glass, to allow natural light and air into the interior of the building.

LIVE-WORK UNIT

A structure that contains a dwelling unit and one or more businesses or commercial uses in a single building where the resident owner or employee of the business resides within the structure.

LOADING SPACE

A space or portion of any area designed, required, or by its nature used as an area for the temporary parking of motor vehicles while transferring, loading or unloading goods, merchandise and products or while performing services.

LOT

A parcel of land occupied, or intended to be occupied, by structures or uses together with such yards and open spaces as are required under the provisions of this chapter.

LOT AREA

The total horizontal area within the lot lines of the lot.

LOT, CORNER

A lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135°. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this chapter if the arc is of less radius than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve or straight street line, extended, form an interior angle of less than 135°.

LOT COVERAGE

The percent of the lot occupied by impervious surfaces excluding accessory buildings or structures.

LOT DEPTH

The average horizontal distance between the front and rear lot lines.

LOT, INTERIOR

Any lot other than a corner lot.

LOT LINES

The lines bounding a lot as defined herein:

(1) **FRONT LOT LINE** For an interior lot, the line separating said lot from the street. For a corner lot, each line separating said lot from both streets. For a through lot, the line separating said lot from both streets.

(2) **REAR LOT LINE** The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 10 feet long, lying farthest from the front lot line and wholly within the lot.

(3) **SIDE LOT LINE** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from the street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

LOT OF RECORD

A platted parcel of land, the dimensions of which are shown on a document or map on file with the City assessor and which parcel of land actually exists as so shown. In no case shall a portion of an original platted lot constitute a lot of record.

LOT, THROUGH

Any lot having frontage on two more or less parallel streets as distinguished from a corner lot.

LOT WIDTH

The horizontal distance between the side lot lines, measured at the two points where the building line or setback line intersects the side lot lines.

MARINA

A waterfront facility offering two or more berths or moorings for boats not registered to the property owner, his or her family or renter of any dwelling unit, on the same lot and includes one or more of the following: the sale of marine products and services including gas and oil, dry storage, repairs, new and used boat sales and services, boat rentals or charters, and other water-based recreational services.

MARIJUANA DISPENSARIES, RETAIL

A business that is registered to operate in the State of New York that sells or

otherwise distributes marijuana to certified patients, designated caregivers or practitioners.

MARIJUANA CULTIVATION, MANUFACTURING, PACKAGING

Shall include, but is not limited to, cultivation, harvesting, extraction or other processing, packaging, and labeling of marijuana products.

MEDICAL CARE FACILITY

Any institution, place, building or agency, whether or not licensed or required to be licensed by the State Board of Health or the State Hospital Board by or in which facilities are maintained, furnished, conducted, operated or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more non-related mentally or physically sick or injured persons, or for the care of two or more nonrelated persons requiring or receiving medical, surgical or nursing attention or service as acute, chronic, convalescent, aged, physically disabled or crippled, including but not limited to general hospitals, urgent care, clinic, sanitoriums, sanitariums, nursing homes, intermediate care facilities, extended care facilities, health maintenance organizations, mental hospitals, mental disability facilities, medical schools and other related institutions and facilities, whether operated for profit or nonprofit, and whether privately owned or operated by a governmental unit. This term shall not include a physician's office or first aid station for emergency medical or surgical treatment or housing for the elderly.

MIXED-USE BUILDING (SMALL)

A building which contains no more than five families living independently of each other in five separate dwellings units located above the ground floor of an institutional, civic, office, commercial, or retail use.

MIXED-USE BUILDING (LARGE)

A building which contains five or more families living independently of each other in five separate dwellings units located above the ground floor of an institutional, civic, office, commercial, or retail use.

MUNICIPAL PARK

A natural or landscaped area, buildings, or structures, provided by a unit of government, to meet the active or passive recreational needs of people on publicly owned land.

MUSEUM

An institution devoted to the procurement, care, study, and display of objects of

lasting interest or value.

NEIGHBORHOOD RETAIL

A retail sales business with less than 6,000 square feet of gross floor area devoted, in whole or part, to the sale of dry goods and food and beverages, consumer goods and food sales to be used and consumed primarily off the premises. Excluding the establishments that dispense of gasoline or any other motor vehicle fuels.

NIGHTCLUB

A business enterprise which provides or permits any musical entertainment, singing, dancing or other form of amusement, whether or not in connection with the service of food or beverage, but not including a restaurant or bar or cafe which provides incidental musical entertainment without dancing, either by mechanical electrical devices or by not more than four persons playing any nonamplified instrument. This will not include any restaurant or bar or cafe located in a hotel having more than 50 sleeping rooms.

NONCONFORMING STRUCTURE

A structure or portion thereof which was lawfully constructed, converted or enlarged pursuant to building permits issued by the City prior to the effective date of this chapter, or amendments thereto, and that does not conform to the provisions of the district in which it is located.

NONCONFORMING LOT

A lot of record in existence prior to the effective date of this chapter or amendments thereto which does not have the minimum area, lot width or lot depth for the district in which it is located.

NONCONFORMING USE

A use which was lawfully established, converted or enlarged prior to the effective date of this chapter or amendments thereto, and that does not conform to the provisions of the district in which it is located.

NURSERY SCHOOL

A facility that provides care and instruction for preschool age children in accordance with New York State regulations.

OFFICE

A room or suite of rooms in which an individual or group of individuals operate,

including, but not limited to, medical, osteopathic, dental, podiatric, chiropractic, optometric, law, psychiatric, accounting, architecture and engineering, real estate, insurance.

OUTDOOR STORAGE

Storage of any materials, merchandise, stock, supplies, machines and the like that are not kept in a structure having at least four walls and a roof, regardless of how long such materials are kept on the premises. Outdoor storage shall not include junk and salvage yards, auto wrecking yards or the like.

OUTDOOR CAFÉ, ACCESSORY

An outdoor seating area consisting of tables, chairs, or other fixtures intended for the consumption of food and beverage, maintained on the property and intended for the patrons of the food service facility or restaurant located on the same property having the same operator.

PARKING AREA (OFF-STREET)

A section of a lot to be used for parking up to five vehicles to be used specifically as an accessory use.

PARKING LOT (OFF-STREET)

A parcel of land devoted to unenclosed parking spaces for more than five vehicles.

PARKING STRUCTURE

A structure, other than accessory off-street parking areas for a charge or permit, motor vehicles may be stored for the purpose of off-street parking.

PLANNED DEVELOPMENT

A tract of land planned and developed as an integrated unit under single owner or control. Control in this context may, in addition to single ownership, be vested in partnerships, corporations, syndicates or trusts comprised of owners of separate and contiguous tracts of land who join together in good and sufficient agreement for the purpose of developing respective properties according to one integrated plan.

PORCH

Any veranda, gallery, terrace, piazza, portico or similar projection from a main wall of a principal building and covered by a roof, other than a carport as defined herein. An unenclosed porch is a porch with no side enclosures that are more than 36 inches in height other than the side of the building to which the porch is

attached. A porch shall extend no more than eight feet out from the main wall of a building.

PRIMARY FACADE

The facade of the building facing the primary street that serves as the address of the lot.

PRINCIPAL BUILDING

A building in which is conducted the principal use of the zoning lot upon which it is situated.

PRINCIPAL USE

The principal use to which the premises are devoted.

PUBLIC UTILITY

A business or service having an appropriate franchise from the State of New York, which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need such as electricity, gas, water transportation or communications.

RELIGIOUS USE

A place for public worship, including, but not limited to, a church, synagogue, temple or mosque.

RETAIL, GENERAL

Establishments more than 6,000 sq. ft. providing goods or merchandise to the general public, for a fee. General Retail establishments shall not be interpreted to include automobile uses, accessory drive through uses, or neighborhood retail.

RIGHT-OF-WAY LINES

Lines which separate private property from existing or dedicated public property containing or proposed to contain publicly owned street surfaces, gutters, curbs, planted strips or sidewalks. Where a public street is designated on the major thoroughfare plan, all requirements of this chapter which relate to rights-of-way shall be measured from the indicated proposed right-of-way lines.

SATELLITE DISH

A device incorporating a reflective surface that is solid, open mesh or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves

between terrestrial and/or orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, television reception only systems (TVROs) and satellite microwave antennas.

SCHOOL, COLLEGE UNIVERSITY OR TRADE

A public, parochial, private school or college authorized to grant academic degrees, associate academic degrees, certificates and/or diplomas, and requiring for admission at least a high school diploma or equivalent general academic training. Or a school primarily devoted to giving instruction in vocational, professional, musical, dramatic, artistic, linguistic, scientific, religious, other special subjects giving regular instruction.

SCHOOL, PRE-SCHOOL, ELEMENTARY, MIDDLE OR HIGH

A public, parochial, private school giving regular instruction, but not including a group day-care center unless conducted as part of a school of general education.

SELF STORAGE FACILITY

Self-service storage facility means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such facility for the purpose of storing and removing personal property. A self-service storage facility is not a warehouse.

SERVICE ESTABLISHMENT

Service establishment shall include, but need not be limited to, barbershops, beauty parlors, hair stylists, laundromats, dry cleaning pickup establishments, tailors, dressmakers, and other similar places of business. The term service establishment" is not to be construed to include offices of physicians, dentists, and veterinarians, or dry-cleaning plants, linen or diaper service establishments.

SETBACK LINE, BUILDING

A line prescribed by the zoning district regulations delineating portions of a lot into which no building or structure shall project.

SHOPPING CENTER

Any group of two or more commercial uses which (a) are designed as a single commercial group, whether or not located on the same lot, (b) are under common ownership or management, (c) other structural member to form one continuous structure, or if located in separate buildings, are interconnected by walkways and accessways designed to facilitate customer interchange between the uses, (d) share a common parking area and (e) otherwise present the appearance of one continuous commercial area.

SHORT-TERM RENTAL

The rental or lease of any dwelling unit or dwelling, for a period of thirty (30) days or less, to one entity. Motels, hotels, inns, and bed and breakfasts are excluded from this definition.

SIDEWALK CAFÉ, ACCESSORY

An area adjacent to and directly in front of a street-level eating or drinking establishment located within the sidewalk area or pedestrian plaza area of the public right-of-way and used exclusively for dining, drinking, and pedestrian circulation.

SITE PLAN

A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, major landscape features, and the location of proposed utility lines.

SMOKE SHOP

A building or portion thereof where tobacco products and paraphernalia, which includes but shall not be limited to cigarettes, cigars, pipes, Kreteks (clove cigarettes), hookahs, and Shisha, are used and/or consumed on the premises.

STUDENT HOUSING

A building used as a residence exclusively for students of a college, university or school including fraternities or sororities.

SOLAR, ACCESSORY

Any solar energy system that is an accessory use or structure, designed and intended to generate energy for the primary use by or a credit to owners, lessees, tenants, residents, or other occupants of the parcel on which they are erected, and where the sale of excess power shall be secondary.

SOLAR, LARGE SCALE

A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption.

STOOP

A frontage element wherein the building façade is aligned close to the lot line with the first story elevated from the sidewalk, providing privacy for the front facing

windows or rooms. The entrance is usually an exterior stair set and landing.

STORAGE YARD

The use of any space, whether inside or outside a building for the storage or keeping of construction equipment, machinery, vehicles or parts thereof, boats and/or farm machinery.

STORY

That part of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling or roof next above it.

STREET

A strip of land intended for vehicular and bicycle traffic, transit operations, and providing the principal means of access to property, including but not limited to road, land, drive, avenue, highway, boulevard, or any other thoroughfare.

STRUCTURE

Any object constructed, installed or placed on the land or connected to the shoreline such as buildings, sheds, single family dwellings, manufactured homes, signs, tanks, fences, and poles, and any fixtures, additions and alterations thereto. Construction must be more than six inches above grade or in excess of 75 square feet to be considered a structure. Landscaping features, driveways and parking areas shall not constitute structures.

TECHNOLOGY/RESEARCH FACILITY

Buildings or portions of buildings used primarily for scientific, medical and/or high-tech research, development and product or equipment design activities in a setting which combines offices and laboratories and may include light manufacturing. Includes laboratories serving the medical profession by the testing and analysis of specimens submitted by physicians. Activities of such laboratories are confined to serving the medical profession.

THEATER

A building designed for the enactment of dramatic performances, musical performances, and/or the showing of motion pictures.

USE

Any proposal for which a structure or a tract of land may be designed, arranged, intended, maintained or occupied, also any activity, occupation, business or

operation carried on or intended to be carried on or in a structure or a tract of land.

VARIANCES (AREA AND USE)

A device which grants a property owner relief from certain provisions of this chapter which the Zoning Board of Appeals is permitted to grant in cases where strict enforcement of said provisions would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.

VEHICLE CHARGING STATION

A location that contains the equipment that supplies electric energy for the recharging of electric vehicles.

VEHICLE SALES/ RENTAL/ STORAGE

Any building, land area or other premises used for the display or sale or lease or rental of new or used automobiles, trucks, trailers or boats, but not including any repair work other than warranty and other repair service conducted as an accessory use on such premises. A permanent sales office building shall be located on the same lot as the vehicle sales.

VEHICLE STORAGE

Any outdoor area used for the storage of vehicles.

VENDING LOT

Temporary use of a lot permitted by the Zoning Board of Appeals for up to a 12-month period where food, beverages, goods, merchandise, or service are displayed, offered for sale, or given away.

WAREHOUSE/WHOLESALE DISTRIBUTION

Facilities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise and odors, but not involved in manufacturing or production.

YARD

An open space on the same lot with a building, unoccupied or unobstructed by a portion of structure from the ground upward, except as otherwise provided in this chapter.

YARD, FRONT

A yard extending across the full width of a lot and lying between the front lot line

and the principal building(s). On a corner lot, the two yards lying between the principal building and the two or more public streets shall be deemed to be front yards.

YARD, FRONT AVERAGE

The minimum depth of the front yard for the vacant lot situated between two improved lots, the front yard of the vacant lot shall be equal to the average of the front yards of existing buildings on either side. In no case shall it be closer than the required front yard setback of the district in which the lot is locate.

YARD, PRIVACY

A small area contiguous to a building and enclosed on at least two sides with either a wall or fence having a minimum height of six feet.

YARD, REAR

A yard extending across the full width of the lot and lying between the rear lot line and the principal building(s).

YARD, SIDE

A yard between the side lot line and the principal building and extending from the front yard to the rear yard, or in the absence of either of such yards, to the front or rear lot lines, as may be appropriate.

ZOO

An area, building, or structures which contain wild animals on exhibition or viewing by the public.

ARTICLE II
Administration and Enforcement

DIVISION 1 Generally

Sec. 264-120 Enforcement.

The Commissioner of Code Enforcement, the Commissioner of Urban and Economic Development, or their duly appointed representatives of the City of Utica are authorized and empowered to enforce the requirements of this chapter. The Commissioner of Code Enforcement shall cooperate with Building Code Inspector to coordinate enforcement and inspection activities so as to achieve the greatest efficiency and avoid duplication of efforts.

Sec. 264-121 Building permits.

A. No building or structure shall be erected, enlarged, structurally altered, demolished, moved or removed, wholly or partly, and no excavation for any building, structure or use shall be made without obtaining a building permit in accordance with the requirements of Chapter 2-6 of the City of Utica Code "Buildings and Building Regulations."
B. Such building permit shall be issued only where the accompanying application, plans, drawings and specifications are in full conformity with the provisions of this chapter.

Sec. 264-122 Certificates of occupancy.

A. It shall be unlawful to use or permit the use of any building or premises or part thereof, hereafter created, erected, converted or enlarged, wholly or partly, in its use or structures, unless a certificate of occupancy shall have been issued by the Building Inspector in accordance with the requirements of Chapter 2-6 of the City of Utica Code "Buildings and Building Regulations."
A. Such certificate shall show that such building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this chapter.

Sec. 264-123 Inspections; right of entry.

The Building Inspector, the Zoning Officer or their duly appointed representatives are authorized to inspect and examine any building, structure, place or premises in the City of Utica to determine compliance with the provisions of this chapter. In performing such inspections, the Building Inspector, Zoning Officer or their duly appointed representatives shall have the right of entry.

Sec. 264-124 Certification by Commissioner of Code Enforcement.

Except as hereinafter provided, no building permit or certificate of occupancy involving new construction or expansion in bulk or gross floor area of any existing building or structure or the change in intensity of use of an existing building or structure shall be issued by any officer, department or employee of the City unless the application for such permit has been examined by the Commissioner of Code Enforcement and has affixed to it a certificate of zoning

compliance indicating that the proposed building or structure complies with all the provisions of this chapter. Any building permit or certificate of occupancy issued in conflict with the provisions of this chapter shall be null and void.

Sec. 264-125 Liability.

A. No officer, agent or employee of the City, including any member of the Planning Board, Board of Zoning Appeals and the Scenic and Historic Preservation Commission, shall be liable for any damages that may result to persons or property as a result of any act, decision or determination required or permitted under this chapter.
B. Costs shall not be allowed against any such officer, agent or employee of the City, or Board or Commission, unless it shall be determined by a court of competent jurisdiction that such individual, Board or Commission acted with gross negligence or in bad faith or with malice in carrying out the powers and duties required or permitted in this chapter.
C. Any suit brought against the City as a result of any act required or permitted in the implementation of this chapter shall be defended by the Corporation Counsel of the City until the final determination of the proceedings thereon.

Sec. 264-126 Fees.

A. The Common Council shall establish a schedule of fees for zoning amendments, special permits, appeals and variances, floodplain permits, and other matters pertaining to this chapter. The schedule of fees shall be available for public inspection in the office of the Building Inspector and Zoning Officer and may be amended only by the Common Council. This schedule may be amended by resolution of the Common Council.
B. Until all applicable fees have been paid in full, no action shall be taken on any application or appeal. No fee shall be refunded except as may be authorized by the Common Council in the establishment of a fee schedule.

DIVISION 2 Planning Board

Powers and Duties

A. Generally. In exercising its powers, the Board may reserve or affirm wholly or partly, or modify the order; requirement, decision or determination as in its judgment ought to be made in accordance with the provisions of this chapter and pursuant to Chapter 21, Article 3, of the General City Law of the State of New York.
B. Jurisdiction. The Board shall have all the power and duties prescribed by law and this chapter which are more particularly specified as follows:
    1. Site plan review. The Planning Board shall be responsible for reviewing site plans in association with all zoning actions where site plan review is required, including planned developments.
    2. Special Use Permit. The Planning Board shall be responsible for reviewing site plans in association with all zoning actions where special use permit is required.

3. Floodplain development. The Planning Board shall have full authority over the review and approval of proposals which require development of land located in the floodplain.
4. Curb cut variances. The Planning Board is given the authority to grant curb cut variances and driveway approach variances in accordance with Section 2-23-82 of this Code.
5. Subdivisions. The Planning Board is given the authority to review all proposed subdivisions of property in the City and is given the power to modify the subdivision standards in the case of large-scale developments, in accordance with Section 2-24-7 of this Code.
6. Recommendations to the Common Council. The Planning Board is responsible for reviewing proposals for zoning amendments and make recommendations to the Common Council on such. The Planning Board may also be required to review other proposals and make recommendations as allowed by this chapter and this Code.
7. Scenic and Historic Coordination. The Planning Board is responsible for coordinating with the Scenic and Historic Preservation Commission when projects subject to site plan review or special use permit are located within the Scenic and Historic Preservation District.

Sec. 2-29-46 **through Sec. 2-29-60. (Reserved)**

DIVISION 3 Zoning Board of Appeals

Sec. 2-29-66 Powers and duties.

A. General. In exercising its powers, the Board may reverse or affirm wholly or partly, or modify the order, requirement, decision or determination as in its judgment ought to be made in accordance with the provisions of this chapter and pursuant to Chapter 21 Article 5-A, Section 81 of the General City Law of the State of New York.
B. Jurisdiction. The Board shall have all the power and duties prescribed by law and this chapter which are more particularly specified as follows:
   1. Interpretation. Upon appeals from a decision by the Commissioner of Code Enforcement, the Commissioner of Urban and Economic Development or any other administrative official, or by its own motion, the Zoning Board of Appeals, after due notice and public hearing, shall decide appeals where it is alleged that an error or misinterpretation in any order, requirement, decision, grant or refusal has been made in carrying out the enforcement of the provisions of this chapter, including the determination of the exact location of any district boundary if there is uncertainty with respect thereto.
   2. Grant variances. The Zoning Board of Appeals, after due notice and public hearing, may vary or adapt the strict application of any of the requirements of this chapter where in the case of exceptional physical limitations to land or buildings, such strict application

would result in a practical difficulty (area variance) or unnecessary hardship (use variance) which would deprive the owner of the reasonable use of the land or building involved.

3. Allow building in bed of mapped streets. If after due notice and hearing as provided for in Chapter 21, Article 3, Section 35 of the General City Law of the State of New York and in accordance with the provisions set forth an advisory opinion has been rendered by the Planning Board, the Board may grant a permit for a building in the bed of a mapped street or highway shown upon the official map or plan of the City.
4. Extension of district boundaries. Where a district boundary line divides a lot in single ownership as shown of record at the time of the effective date of this chapter, the Board may extend the zoning district boundary line to include a greater portion or all of said lot in single ownership.
5. Granting of temporary uses. The Zoning Board of Appeals may grant, after due notice and public hearing, the temporary occupancy and use of a structure or lot in any district for a purpose that does not conform with the district requirements provided that such occupancy and use is a temporary one and subject to any reasonable conditions and safeguards which the Board may impose to minimize any injurious effect on the neighborhood or contiguous property. The permit shall be granted for a period of 12 months and shall be renewable for a period of not more than 12 months.

Sec. 2-29-67 Variance procedure

A. Initiation. A property owner may apply to the Zoning Board of Appeals for a variance of the strict application of the terms of this chapter.

B. Authorization.

1. On an appeals from a determination of the Commissioner of Code Enforcement or the Commissioner of Urban and Economic Development and in conformity with law, the Zoning Board of Appeals has the authority to vary the requirements as they apply to a particular lot where the property owner can show that his or her property was acquired in good faith and where the strict application of this chapter would result in practical difficulty or unnecessary hardship.
2. No application for a variance shall be acted upon until the required public hearing has been held. The Zoning Board of Appeals shall render a written decision on the application for an area or use variance within 62 days of the date of the public hearing. This time period may be extended by mutual consent of the applicant and the Board.
3. Application.
    a. Every application for a variance shall be filed with the Commissioner of Code Enforcement. No application shall be officially on file with the City unless and until the application and all required accompanying submissions are submitted to the Commissioner of Code Enforcement.
    b. The application shall contain the following information:
        i. The specific provision or provisions of this chapter from which an area or use variance is sought.
        ii. The nature and extent of the variance sought.

iii. The special conditions of the property, or the nature of the use and/or development of contiguous properties, which would make such a variance necessary.
iv. A detailed statement indicating why the variance should be granted.
v. A detailed site plan drawn to scale or with all measurements clearly labeled.
vi. Photographs of the land or building involved which highlight the area affected by the variance.

4. Standards for area and use variances. The Zoning Board of Appeals shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall make a finding of fact based upon the evidence as presented to it in each specific case as specified below:
    a. Area variance.
        i. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Commissioner of Code Enforcement, to grant area variances as defined herein.
        ii. 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:
            1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
            2. whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
            3. whether the requested area variance is substantial;
            4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
            5. whether 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.
        iii. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
        iv. Imposition of conditions. The Zoning Board of Appeals shall, in the granting of both use variances 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 the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

b. Use variances.
    i. The Zoning Board of Appeals, on appeal from the decision or determination of the Commissioner of Code Enforcement, shall have the power to grant use variances, as defined herein.
    i. No such use variance shall be granted by a Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. 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 district or 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.
    ii. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem 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.

6. Expiration of variances.
    a. Whenever a variance is authorized by the Zoning Board of Appeals, the activity authorized thereby shall be established and any construction authorized thereby shall be diligently prosecuted and shall be completed within twelve months after the effective date of such variance, unless an extension of not more than six months shall be granted by the Zoning Board of Appeals because of the occurrence of conditions unforeseen at the time of authorizing such variance.
    b. If not so acted on and completed within a period of twelve months, unless the same is extended as aforesaid, such variance shall automatically expire without notice.

Sec. 2-29-68 Hearings open to the public.

All hearings of the Board shall be open to the public to the extent provided in Article Seven of the Public Officers Law. The Board shall keep minutes of its proceedings, showing the vote of

each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations, and other official actions, all of which shall be kept on file in the offices of the City Planning Department and shall be part of the public record.

Sec. 2-29-69 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 reviewed may be made by any member of the Board. 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 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 reviewed order, decision or determination will not be prejudiced thereby.

Sec. 2-29-69 **through Sec. 2-29-80. (Reserved)**

DIVISION 4 Scenic and Historic Preservation District

Sec. 2-29-291 Purpose.

It is hereby declared as a matter of public policy that the protection, enhancement, and perpetuation of landmarks and historic districts is necessary to promote the economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as the City has many significant historic, architectural, and cultural resources which constitute its heritage, this act is intended to:

A. Protect and enhance the landmarks and historic districts which represent distinctive elements of the City's historic, architectural, and cultural heritage.
B. Foster civic pride in the accomplishments of the past.
C. Protect and enhance the City's attractiveness to visitors and the support and stimulus to the economy thereby provided.
D. Insure the harmonious, orderly, and efficient growth and development of the City.

Sec. 2-29-292 Scenic and Historic Preservation Commission.

There is hereby created a commission to be known as the "Scenic and Historic Preservation Commission."

A. The Commission shall consist of five members to be appointed, to the extent available in the community, by the Mayor as follows:
    1. At least one shall be an architect.
    2. At least one shall be selected from a list of nominees provided by the Oneida County Historical Society.
    3. At least one shall be a resident of an historic district.
    4. At least one shall be selected from a list of nominees provided by the Landmarks Society of Greater Utica.
    5. At least one shall have demonstrated significant interest in and commitment to the field of historic preservation evidenced either by involvement in a local historic preservation

group, employment, or volunteer activity in the field of historic preservation, or other serious interest in the field.

6. All members shall have a known interest in historic preservation and architectural development within the City.

B. One member of the Commission shall be appointed for a term of one year, one member of the Commission shall be appointed for a term of two years, one member for a term of three years, one member for a term of four years and one member of the Commission shall be appointed for a term of five years. All subsequent appointments shall be for a full five-year term.

C. Commission members may serve no more than two consecutive five-year terms.

D. Vacancies shall be filled for the unexpired term only and members may be removed for cause by the Mayor upon written charges and after a public hearing.

E. There shall be a Chair and Vice Chair of the Commission who will be elected by and from the members of the Commission.

F. The powers of the Commission shall include:

1. Utilization of staff and professional consultants as necessary to carry out the duties of the Commission.
2. Promulgation of rules and regulations as necessary for the conduct of its business.
3. Adoption of criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic districts.
4. Conduct of surveys of significant historic, architectural, and cultural landmarks and historic districts within the City.
5. Designation of identified structures or resources as landmarks and historic districts.
6. Adoption of criteria for use in reviewing proposed building alterations.
7. Acceptance on behalf of the City government of the donation of facade easements and development rights, and the making of recommendations to the City government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this act.
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 government concerning the utilization of state, federal, or private funds to promote the preservation of landmarks and historic districts within the City.
10. Recommending acquisition of a landmark structure by the City government where its preservation is essential to the purposes of this act and where private preservation is not feasible.
11. Approval or disapproval of applications for certificates of appropriateness pursuant to this Division.

G. The Commission shall meet at least monthly, but meetings may be held at any time on the written request of any two of the Commission members or on the call of the Chair or the Mayor.

H. Planning Board Coordination. The Scenic and Historic Board is responsible for coordinating with the Planning Board when projects that are located within the Scenic and Historic Preservation District are subject to site plan review.

I. A quorum for the transaction of business shall consist of three of the Commission's members, but not less than a majority of the full authorized membership may grant or deny a certificate of appropriateness.

Sec. 2-29-293 Designation of landmarks and historic districts.

A. The Commission may designate an individual property as a landmark if it:
   1. Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic, or social history of the locality, region, state, or nation; or
   2. Is identified with historic personages; or
   3. Embodies the distinguishing characteristics of an architectural style; or
   4. Is the work of a designer whose work has significantly influenced an age; or
   5. Because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.

B. The Commission may designate a group of properties as an historic district if it:
   1. Contains properties which meet one or more of the criteria for designation of a landmark; and
   2. By reason of possessing such qualities, it constitutes a distinct section of the City.
   3. The boundaries of which historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the City Clerk's office for public inspection

C. Notice of a proposed designation shall be sent by registered mail to the owner of the property proposed for designation, describing the property proposed and announcing a public hearing by the Commission to consider the designation. Where the proposed designation involves so many owners that individual notice is not feasible, notice may instead be published at least once in a newspaper of general circulation at least 10 days prior to the date of the public hearing. Once the Commission has issued notice of a proposed designation, no building permits shall be issued by the Building Inspector until the Commission has made its decision.

D. The Commission shall hold a public hearing prior to designation of any landmark or historic district. The Commission, owners, and any 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 or historic district. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.

E. The Commission shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the offices of the Oneida County Clerk for recordation.

Sec. 2-29-294 Certificate of appropriateness.

A. Generally. No exterior alteration, restoration, reconstruction, demolition, new construction, or moving of a landmark or property within an historic district, nor shall any material change

in the appearance of such property, its light fixtures, signs, sidewalks, fences, stops, paving, or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic district, without first obtaining a certificate of appropriateness from the Scenic and Historic Preservation Commission.

B. In passing upon an application for a certificate of appropriateness, the Scenic and Historic Preservation Commission 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 street or alley.

C. Criteria for approval. The Commission's decision shall be based on the following principles:
   1. The Secretary of Interior's standards for the rehabilitation of historic properties.
   2. Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible.
   3. Any alteration of existing properties shall be compatible with its historic character, as well as with the surrounding district.
   4. New construction shall be compatible with the district in which it is located.

D. In applying the principle of compatibility, the Commission 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 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 on streets, including setback.
   5. The importance of historic, architectural, or other features to the significance of the property.

E. Application procedure.
   1. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Scenic and Historic Preservation Commission. The application shall contain:
      a. Name, address, and telephone number of applicant.
      b. Location and photographs of property.
      c. Elevation drawings, including relationship to adjacent properties, if available.
      d. Perspective drawings, including relationship to adjacent properties, if available.
      e. Samples of color or materials to be used.
      f. 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.
      g. Any other information which the Commission may deem necessary in order to visualize the proposed work.

F. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Scenic and Historic Preservation Commission. Nor shall a certificate of occupancy be issued until a certificate of appropriateness has been issued. The certificate of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the City.

G. The Commission shall approve, deny, or approve the permit with modifications within 45 days from receipt of the completed application. The Commission may hold a public hearing on the application at which any opportunity will be provided for proponents and opponents of the application to present their views.

H. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's office for public inspection. The Commission's decisions shall state the reasons for denying or modifying the application.

Sec. 2-29-XX Planning Board Coordination:

A. Applicability: Projects subject to Site Plan Review, with or without the need for a Special Permit and/or Variances.

B. Site Plan Review applications referred to the Commission by the Planning Board shall be referred back to the Planning Board within the 45 day review period for the Certificate of Appropriateness, unless the applicant and the Commission mutually agree upon an extension. The application shall be referred back to the Planning Board even if the Certificate of Appropriateness is denied.

C. Upon receipt of a decision from the Commission, the Planning Board can accept the approval, overrule a denial or modify the decision. Overruling a denial or modifying a decision requires a majority vote of all of the members currently serving on the Planning Board.

Sec. 2-29-295 Hardship.

A. Criteria.
   1. An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish that:
      a. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.
      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.
      c. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

B. An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the grounds 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.

C. Application procedure.

1. After receiving written notification from the Commission 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 Commission makes a finding that a hardship exists.
2. The Commission may 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.
3. The applicant shall consult in good faith with the Commission, local preservation groups, and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
4. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.

Sec. 2-29-296 Administration and enforcement.

A. Enforcement. All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to any requirements included therein. It shall be the duty of the building Code Enforcement Officer to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Scenic and Historic Preservation Commission, the building Code Enforcement Officer 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 and repair requested.
   1. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic district which does not involve a change in design, material, color, or outward appearance.
   2. No owner or person with an interest in real property designated as a landmark or included within an historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Scenic and Historic Preservation Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.
   3. Examples of such deterioration include:
      a. Deterioration of exterior walls or other vertical supports.
      b. Deterioration of roofs or other horizontal members.
      c. Deterioration of exterior chimneys.
      d. Deterioration or crumbling of exterior stucco or mortar.
      e. Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors.

f. Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

C. Violations.
   1. Failure to comply with any of the provisions of this division shall be deemed a violation, and the violator shall be liable to a fine of not less than $50 nor more than $500 for each violation and 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 division shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the City Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

DIVISION 5 Floodplain Administration

Sec. 2-29-XXX Floodplain Administrator

A. The Commissioner of Code Enforcement or the Commissioner of Urban and Economic Development or designee is hereby appointed local administrator to administer and implement the floodplain development regulations by granting or denying floodplain development permits to accordance with the provisions of this Ordinance.

B. Duties and responsibilities of the local floodplain administrator:
   1. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:
      a. Review all applications for completeness, particularly with the requirements of Article VII, Division 6, Section XXX, Application for permit, and for compliance with the provisions and standards of this Ordinance.
      b. Review subdivision and other proposed new developments, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article VII, Division 6, Section 2-29-XXX through 2-29-XXX, and in particular, Section 2-29-XXX Subdivision Proposals.
      c. Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g. stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article VII, Division 6, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
      d. Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.
   2. Use of other flood data.

a. When the Federal Emergency Management Agency has designated areas of special flood hazard of the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated as Zone A or V on the FIRM), nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to Section 2-29-XXX, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this Ordinance.
b. When base flood elevation data is not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purpose of this Ordinance.

3. Alteration of watercourses.
   a. Notify adjacent communities and the New York State Department of Environmental Conservation (NYSDEC) prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the FEMA Region II Regional Administrator.
   b. Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

4. Construction stage.
   a. In Zones A, A1—A30, AE and AH, if base flood elevation data is available, upon placement of the lowest flood or completion of flood-proofing of a new or substantially improved structure, permit holder shall obtain a certification of the as-built elevation of the lowest floor or flood-proofed elevation in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
   b. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

5. Inspections.

   The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if

requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

6. Stop-work orders.

   The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this Ordinance and/or the conditions of the development permit or ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in this Ordinance.

7. Certificate of Compliance.
   a. In areas of special flood hazard, as determined by documents enumerated in Article VII, Division 6, Section 2-29-XX Established Areas of Special Flood Hazard, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof, hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
   b. A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
   c. Issuance of the certificate shall be based upon the inspections conducted as prescribed in (5) Inspections of this Division, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.
8. Information to be retained.
   a. The local administrator shall retain and make available for inspection, copies of the following:
      I. Floodplain development permits and certificates of compliance;
      II. Certifications of as-built lowest-flood-elevations of structures, required pursuant to subsection (4) Construction Stage of this section and whether or not the structures contain a basement;
      III. Floodproofing certificates, required pursuant to subsection (4) of this Division, and whether or not the structures contain a basement;
      IV. Variances issued pursuant to Division 3, Zoning Board of Appeals, Floodplain Variance;
      V. Notices required under subsection (3) of this Division, Alteration of watercourses.

Sec. 2-29-XXX Floodplain Development Permits

A. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in the community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding.

B. It shall be unlawful to undertake any developments in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Article VII, Division 6, Section 2-29-XXX Established Areas of Special Flood Hazard, without a valid floodplain development permit.

C. Applications for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale, and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, and drainage facilities, and the location of the foregoing.

D. Penalties for Noncompliance.
   1. No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Ordinance and any other applicable regulations.
   2. Any infraction of the provisions of this Ordinance by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation.

Sec. 2-29-XXX Application Procedures

A. Application.
   1. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data is available. Upon completion of the lowest floor, the permitee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

   2. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permitee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
   3. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 2-10-18(3), Utilities.
   4. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in Section 2-10-20, Nonresidential structures.
   5. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 2-10-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
   6. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

7. In Zone A, when no base flood elevation data is available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

Sec. 2-29-297 **through Sec. 2-29-310. (Reserved)**

DIVISION 6 Nonconforming Uses, Structures and Lots

Sec. 2-29-81 Statement of intent.

A. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this chapter was passed or amended, but which could be prohibited, regulated or restricted under the terms of this chapter or future amendments.

B. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Nonconformities may be permitted to be enlarged or added to, but only in a limited manner and as provided for in other sections of this chapter. [1]

C. To avoid hardship, nothing in this division shall be deemed to require a change in the plans, construction or designated use of any building for which a valid building permit has been issued at the time of adoption of this Chapter. This shall not extend the expiration date of a building permit.

Sec. 2-29-82 Non-Conforming Uses

A. Any nonconforming use, which existed lawfully at the time of adoption of this Code, may be continued, subject to the following provisions.

B. Expansion, change of use, or replacement
   1. Expansion. A nonconforming use, which existed at the time of adoption of this Chapter, may be expanded within any portion of the existing structure in which it is located upon site plan review and approval from the Planning Board. A nonconforming use shall not be expanded beyond the area of the existing structure in which the use is located, unless granted a use variance from the Zoning Board of Appeals.
   2. Change of Use. A nonconforming use shall not be changed to any other nonconforming use.
   3. Replacement. If a nonconforming use is replaced by another use, such use shall conform to the regulations of the district in which it is located.

C. Discontinuance
   1. In all commercial districts (CBD, UMU and NMU), if a nonconforming use is discontinued for a period of two years (24 consecutive months), such nonconforming use shall expire and be deemed abandoned; and any subsequent use on the same lot shall conform to the regulations of the district in which it is located.

2. In all other districts, if a nonconforming use is discontinued for a period of one year (12 consecutive months), such nonconforming use shall expire and be deemed abandoned; and any subsequent use on the same lot shall conform to the regulations of the district in which it is located.

D. Destruction and restoration

1. If any structure in which a nonconforming use is conducted is hereafter damaged, removed, or destroyed by fire, wind, explosion, or other natural cause, to the extent of 75% or more of its fair market value at the time of such damage, application for any reconstruction or restoration of such structure for a building permit, to resume the non-conforming use shall be made within one year and the structure for the nonconforming use shall be constructed within one additional year unless the permit is renewed.

Sec 2-29-83 Non-Conforming Structures

A. Continuation

Any nonconforming structure, which existed lawfully or if a valid building permit has been issued at the time of adoption of this Chapter may be maintained.

B. Modification and Replacement

1. A nonconforming structure shall be maintained in such condition as will not constitute a danger to the health, safety, or general welfare of the public.
    a. Modification. A nonconforming structure shall not be added to or enlarged or altered in any manner, in a way, which increases its nonconformity. All such modifications, which increase the nonconformity, shall require an area variance from the Zoning Board of Appeals.
    b. Replacement. A nonconforming structure may be replaced on its identical footprint, within 24 months after its removal, so long as it is not added to, enlarged, reconfigured or altered in any manner or in a way, which increases its nonconformity. After 24 months after removal, such nonconforming structure may not be rebuilt on the same footprint but must conform to the regulations of the district in which it is located.

Sec. 2-29-84 Non-Conforming Lots

A. Any nonconforming lot of record existing as of the adoption of this chapter, which does not meet the minimum lot area and/or minimum lot width and depth requirements for the zoning district in which such lot is situated shall be considered as complying with such minimum lot requirements, and no variance shall be required, provided that such lot does not adjoin other lots in the same ownership.

1. All such lots in the same ownership shall be treated together as one lot. Undeveloped lots shall be merged, one developed and one undeveloped lot shall be merged, two developed lots are not required to be merged.

B. A new structure may be built on a nonconforming lot legally existing prior to the adoption of this chapter so long as such new buildings or structures comply with all of the regulations of the district in which it is located.

C. Lawfully existing structures located on nonconforming lots may be moved, expanded, enlarged or replaced as long as such change complies with all of the regulations of the district in which it is located.

Sec. 2-29-85 Certificate of nonconformity.

A. Authority. The Commissioner of Urban and Economic Development, or a duly designated representative, shall have authority to issue a certificate of nonconformity in any zone within the City.

B. Purpose. The certificate of nonconformity shall establish the legality of nonconforming uses, structures, lots and signs established prior to the effective date of this chapter that do not conform to the regulations of this chapter applicable in the zoning districts in which such nonconformities are located.

C. Certificate of nonconformity standards. A certificate of nonconformity shall be required for any nonconforming uses, structures, lots and signs in the City prior to the approval of additional applications that may be required.

D. Procedure.
   1. Application. The owner of any nonconformity may at any time apply to the Commissioner of Urban and Economic Development for a certificate of nonconformity to establish the legality of nonconformity as of a specified date. Such application shall contain such information as may be required by the Commissioner of Urban and Economic Development.
   2. Action by Commissioner of Urban and Economic Development. Within 45 days following receipt by the Commissioner of Urban and Economic Development of a completed application or such longer time as may be agreed to by the applicant, the Commissioner of Urban and Economic Development shall approve or deny the certificate of nonconformity.
   3. Approval or denial. If, upon reviewing an application for a certificate of nonconformity, the Commissioner of Urban and Economic Development shall determine if the required documents and proof is in order and determine if the use, lot, structure or sign:
      a. Was lawfully existing at the time of the adoption of the provision creating the nonconformity in question;
      b. Has been in continuous use since its establishment with no period of discontinuance causing abandonment and is not in violation of any provisions of this chapter;
      c. The Commissioner of Urban and Economic Development shall issue a certificate evidencing such facts and setting forth the nature and extent of the nonconformity and the date, if any, upon which such nonconformity shall be terminated; otherwise, the Commissioner of Urban and Economic Development shall decline to issue such certificate and shall declare such building, structure or sign to be in violation of this chapter.

E. Appeals. Appeal of a decision by the Commissioner of Urban and Economic Development on a certificate of nonconformity shall be taken to the Zoning Board of Appeals within 60 days of the decision.

Sec. 2-29-90 **through Sec. 2-29-100. (Reserved)**

DIVISION 7 Procedures for Appeals and Applications

Sec. 2-29-101 Forms for appeals and applications.

All appeals and applications as provided for in this chapter shall be submitted in writing on the forms prescribed by the Commissioner of Urban and Economic Development. Each appeal or application shall contain that specific information as may be required by the various provisions of this chapter.

Sec. 2-29-102 Filing of applications.

A. Every application required under the provisions of this chapter shall be filed with the Commissioner of Urban and Economic Development. No application shall be officially on file with the City unless and until the application and all required accompanying submissions are received by the Commissioner of Urban and Economic Development.
B. If the application is complete, it shall be transmitted to the officer, body or agency having jurisdiction to act on the same, and such official shall promptly notify the Commissioner of Urban and Economic Development of the action taken on the application.

Sec. 2-29-104 Processing of applications.

A. All applications and appeals shall be heard and considered in the order in which they are filed, except that an application or appeal may be advanced for a hearing by an order of the respective body for good cause shown. The clerks of the respective hearing bodies shall keep a calendar of cases to be heard in their proper priority.
B. All applications for an amendment to the Zoning Map shall be heard and a decision made within 12 months from the date of filing, unless an extended period is mutually agreed upon by the applicant and the City or unless an applicant refuses or neglects to prosecute an application in accordance with the provisions of this chapter.

Sec. 2-29-105 Time of appeal.

An appeal of any order, requirement, decision, interpretation or determination of any administrative official charged with the enforcement of this chapter shall be filed within 60 days of the date of such decision. The administrative official from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

Sec. 2-29-106 County approval.

Pursuant to Sections 239-1 and 239-m of the General Municipal Law, certain classes of zoning actions shall be reviewed by the Oneida County Planning Department.

Sec. 2-29-107 Conduct of public hearings.

All public hearings as required by this chapter, whether they be conducted by an authorized committee, the Common Council, the Zoning Board of Appeals, or the Planning Board, shall be conducted in accordance with the following provisions:

A. No public hearing shall be held unless the required notice for same has been satisfied in accordance with the provisions of Section 2-29-108.

B. All hearings shall be open to the public. Any person may appear and testify at such hearing, either in person or by an authorized agent or attorney.
C. The hearing body shall by general rule prescribe procedures for the conduct of hearings (i.e. Robert's Rules of Order).
D. The Chair, upon a vote of the majority of members, may continue or defer a hearing, according to one of the following criteria:
    1. If a hearing has been opened and public testimony has been received and there is cause for continuation of the hearing, no formal notice as required by Section 2-29-108 shall be required if the hearing is continued to a date certain; or
    2. If a hearing on a special use permit, a variance, or an amendment to the Zoning Map has not been opened, and there is cause for deferral of the hearing, written notice to adjacent property owners as required by Subsection 2-29-108(3)b shall be remailed, except such notice shall be mailed not less than ten days in advance of the public hearing; or
    3. If a hearing is concluded, but action is deferred until a future date, no formal notice as set forth in in this chapter shall be required prior to action being taken.
E. Where deemed necessary, it shall be in order to conduct joint hearings after public notice as set forth in as set forth in this chapter. If such joint hearing is held, then public notice need be given by only one hearing body, which shall be the Common Council in those instances where it is one of the hearing bodies.
F. An action may be reconsidered only upon motion of a member voting with the prevailing side of the original vote. A motion to reconsider must be made at the same or immediately subsequent regular meeting, and may be seconded by a member.

Sec. 2-29-108 Required notice for public hearing.

A. No public hearing as required by the provisions of this chapter shall be held unless documented evidence can be presented that the following notice requirements have been satisfied. The subject of the public hearing need not be advertised in full, but may be advertised by reference. Every such advertisement shall contain a reference to the place or places within the City where copies of the subject of the public hearing may be examined.
B. Publication. Public notice of any hearing shall be published once in a local newspaper having general circulation in the City. Such notice shall be published not less than 10 days nor more than 21 days before the date of the hearing and shall specify the time and place of the hearing and the nature of the matter before the hearing body. Such notice shall be the responsibility of the clerk of the hearing body.
C. Written notice to appellant/applicant.
    1. With respect to an appeal from an order, requirement, decision or interpretation made by the Commissioner of Urban and Economic Development, the Clerk of the Zoning Board of Appeals shall either send to the appellant by registered mail a notice of a hearing on such appeals, or cause such notice to be served personally on the appellant, in either case at least 10 days before the time of said hearing. A copy of such notice shall be sent to the City's Corporation Counsel.

2. With respect to an application for a variance, the hearing body shall submit written notice to the applicant, and owners of the subject property if different from the applicant, by first class mail such to be postmarked at least 10 days before the day of the hearing.
3. With respect to an application for amendment to the Zoning Map, the Clerk of the Planning Board shall send written notice to all owners of property within 200 feet of the exterior boundaries of the subject property. Such written notice shall state the date, time and place of the public hearing, the present and requested zoning of the property, the location and size of the property, the nature and use of the land proposed, and the name of the applicant. Such written notice shall be postmarked not less than 10 days before the hearing, to the last known address of the owner(s) as shown on the current real estate assessment books.
4. With respect to an appeal from an order, requirement, decision or interpretation made by the Commissioner of Urban and Economic Development or an application for a variance or special use permit, the clerk of the Zoning Board of Appeals shall send written notice to all owners of property within 200 feet of the exterior boundaries of the subject property. Such written notice shall state the date, time, place and subject matter of the hearing and the name of the applicant. Such written notice shall be postmarked not less than 10 days before the hearing, to the last known address of the owner(s) as shown on the current real estate assessment books.
5. With respect to a public hearing for Site Plan Review and Special Permit by the Planning Board, the applicant shall send written notice to all owners of property within 200 feet of the exterior boundaries of the subject property. Such written notice shall state the date, time, place and subject matter of the hearing and the name of the applicant. Such written notice shall be postmarked not less than 10 days before the hearing, to the last known address of the owner(s) as shown on the current real estate assessment books.

D. Additional notice. The hearing body may by resolution prescribe additional means and forms of notices in connection with any matter falling within its jurisdiction.

Sec. 2-29-109 **through Sec. 2-29-120. (Reserved)**

DIVISION 8 Amendments

Sec. 2-29-121 Authorization.

The regulations imposed and the districts created by this chapter may be amended from time to time in the manner provided herein.

Sec. 2-29-122 Initiation of amendments.

Amendments may be proposed in writing by the Mayor, Common Council, Commissioner of Urban and Economic Development, Commissioner of Code Enforcement, the Planning Board, the Zoning Board of Appeals, or any person having legal interest in any property within the City, or by any interested citizen of the City.

Sec. 2-29-123 Procedures.

A. All applications for an amendment to the text of this chapter or for an amendment to the Zoning Map shall be filed with the Commissioner of Urban and Economic Development who shall forward a copy of the same to the Planning Board.
B. Referral to Planning Board. Every such proposed amendment of text or change in the Zoning Map shall be referred to the Planning Board for report thereon before the public hearing provided by the NYS City Law. In recommending the adoption of any such proposed amendment, the Planning Board shall state its reasons for such recommendation, describing any condition that it believes makes the amendment advisable and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the Master Plan of land use for the city and would be in furtherance of the purposes set forth in this chapter. In recommending the rejection or revision of any proposed amendment, the Planning Board shall similarly state its reasons.

Section 2-29-124 Hearing on proposed amendment; notice thereof.

Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing.

Section 2-29-125 Adoption of amendment.

After the public hearing and referral to and report by the Planning Board, a majority vote of the members of the Common Council shall be required to amend this chapter, except as described in the Protest petition process.

Section 2-29-126 Protest petition.

If a written protest against a proposed amendment, supplement or change is presented to the Common Council, signed by the owners of 20% or more of the area of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending one hundred (100) feet therefrom or by the owners of 20% or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least a supermajority members of the Common Council.

DIVISION 9 Alternates

Sec. 2-29-28 Appointment of alternate members.

A. Appointment; term; powers; applicability of state law.
    1. This article is enacted to provide a process for appointing alternate members of the Planning Board, Zoning Board of Appeals, and Scenic and Historic Commission. These individuals would serve when quorum cannot be met by the respective boards due to conflicts of interest by the regular members or extended absence due to illness.
    2. Alternate members of the Boards shall be appointed by the duly authorized appointing authority for a term of one year. No more than three alternate members may be appointed at one time.
    3. The Chair of the Planning Board, Zoning Board, or Scenic and Historic Commission may designate an alternate to 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 the initial meeting at which the substitution is made.

4. All provisions of state law relating to Planning Board, Zoning Board of Appeals, or Scenic and Historic Commission member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provision of a local law/local ordinance relating to training, continuing education, compensation and attendance, shall also apply to alternate members.

B. Severability. If any provisions of this section are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this section shall remain in effect.

DIVISION 10 Training and Attendance

Sec. 2-29-124 Purpose and intent.

A. It is the purpose of this division to establish minimum training, attendance and continuing education hourly requirements for members of the Planning Board, Zoning Board of Appeals, and Scenic Historic Preservation Commission.

B. It is the purpose of this division to ensure that the complex and diverse process of administering local land use laws, where decisions have a profound effect on the character of the City and the wellbeing of its citizens, is conducted by a well-trained and knowledgeable body of Planning Board, Zoning Board of Appeals, and Scenic Historic Preservation Commission members.

C. It is the intent of this division to ensure that Planning Board, Zoning Board of Appeals, and Scenic Historic Preservation Commission members obtain training to enhance their ability to carry out their duties under law and to regularly attend the meetings held by the Board to which they are appointed.

Sec. 2-29-125 Minimum attendance requirements established.

All members of the Planning Board, Zoning Board of Appeals, and Scenic Historic Preservation Commission shall be required to attend a minimum of seven (7) of twelve meetings, or approximately 60% of the meetings held, within each year from the year of their initial appointment to such board. Members are further prohibited from missing four (4) consecutive meetings.

Sec. 2-29-126 Minimum training requirements established.

A. All members of the Planning Board, Zoning Board of Appeals, and Scenic Historic Preservation Commission shall be required to attend a minimum of four hours of relevant training courses within each year from the year of their initial appointment to such board.

B. Suitable training in excess of four hours per year may be accumulated and carried over into the succeeding year for the purpose of satisfying the training requirements for the following calendar year. However, no more than four hours may be carried for more than

one year. All members of the Planning Board, Zoning Board of Appeals, and Scenic Historic Preservation Commission must not go more than two calendar years without completing additional training hours.

C. The training requirement may be satisfied by educational activities substantially devoted to planning, zoning or other land use issues, such as (1) attending conferences, seminars or workshops; (2) participating in on-line training or tutorials; (3) attending college courses; (4) reading journal articles or books; (5) any other educational activities considered acceptable by the Commissioner of Urban and Economic Development. Training may be offered by a municipality, regional or county planning office or commission, county, regional or state planning federation, state agency, statewide municipal association, college or university or other similar entity.

D. A record of annual completion of training shall be maintained by the Commissioner of Urban and Economic Development and a copy provided to the Mayor prior to considering a Planning Board or Zoning Board member for reappointment. Eligibility for reappointment to these boards shall be conditioned upon completion of required training.

E. Noncompliance with minimum requirements relating to training hours shall be deemed a proper cause for removal from position on either board.

F. The costs of such seminars, workshops or continuing education courses so designated shall be reimbursed by the City upon successful completion. Such training sessions shall be approved in advance by the Commissioner of Urban and Economic Development, which approval shall not be unreasonably withheld.

Sec. 2-29-127 Removal for noncompliance.

A. The Commissioner of Urban and Economic Development shall notify the Mayor in writing, on or about May 1 in any year of any member who fails to comply with the minimum requirements for training and attendance in any calendar year. In the event that a member of the Planning Board, Zoning Board of Appeals, and Scenic Historic Preservation Commission has failed to comply, then the Mayor may remove such member for cause as provided herein. Such member shall be mailed a written notice, by certified mail, return receipt requested, specifying the nature of the failure of such member to meet the minimum training and attendance requirements.

B. Action by the Mayor. Following the issuance of a written notification and upon a finding that such member has not met the minimum training and attendance requirements established by this division, the Mayor, within 30 days of such finding, may:

1. Remove such member from the Planning Board, Zoning Board of Appeals, and Scenic Historic Preservation Commission; or
2. Issue a written reprimand to such member without removing such member from such Board; or
3. If the Mayor shall find that the reasons for failing to meet the minimum training and attendance requirements are excusable because of illness, injury or other good and sufficient cause, the Mayor may elect to take no action.

Sec. 2-29-128 Lack of training not to affect validity of actions.

Notwithstanding the foregoing, the failure of a member of the Planning Board, Zoning Board of Appeals, and Scenic Historic Preservation Commission to obtain such training shall not affect said person's ability to entertain applications, to vote on such applications or the validity of such member's actions while still an appointed member of the respective Board.

Sec. 2-29-129 Removal for cause.

Nothing contained herein shall be deemed to limit or restrict the Mayor's authority to remove a member from the Zoning Board of Appeals, Planning Board, Scenic and Historic Preservation Commission for cause (i.e., for other than the reasons enumerated herein).

Sec. 2-29-130. (Reserved)

ARTICLE III
Zoning Map and Districts

Sec. 2-29-132 Zoning Map.

A. Map incorporated. The boundaries of the zoning districts hereby established are shown on a map entitled "Utica Zoning District Map." The Zoning District Map and all notations, references and other information shown thereon shall have the same force and effect as if fully set forth or described herein, and such map is hereby made part of this chapter. The Zoning District Map shall be properly attested and kept on file in the office of the Department of Urban and Economic Development.

B. Omitted land. It is the intent of this chapter that the entire area of the City, including all land and water areas, rivers, streets, alleys, railroads, and other rights-of-way, be included in the districts established by this chapter.

Sec. 2-29-133 District boundaries.

Where uncertainty exists with respect to the boundaries of the various districts, as shown on the Zoning Map, the following rules shall apply:

A. Where the designation on the Zoning Map indicates a boundary approximately upon a road, the centerline of the road shall be construed to be the boundary;

B. Where the designation on the Zoning Map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary;

C. Distances shown on the Zoning Map are perpendicular distances from road center lines measured to the district boundary, which boundaries in all cases where distances are given are parallel to the road center line;

D. In other cases, the district boundary shall be determined by the use of the scale of the Zoning Map.

E. Where a district boundary divides a lot of record at the time such boundary is adopted, the district requirements of the greater portion of the lot will become the requirements of the entire lot.

Sec. 2-29-134 Classification of Districts

A. The City of Utica is hereby divided into the following districts:

1. Central Business District- CBD

2. Urban Mixed Use- UMU

3. Neighborhood Mixed Use- NMU

4. Residential Mixed- RM

5. Residential Single- RS

6. Industrial- I

7. Land Conservation- LC

8. Mixed Use Campus- MUC

B. The City of Utica contains the following overlay districts. Overlay districts supplement and may modify the uses of the underlying zoning district. Unless specifically modified by the overlay, all the uses in the underlying district are permitted subject to all the other provisions of this chapter.

1. Planned Development District- PDD

Sec. 2-29-135 District Purpose

Central Business District. Highest density with the greatest variety of uses including buildings of regional importance. New infill development should reinforce the urban character.

Urban Mixed Use. High density commercial and residential area. Contains many of the historic areas and areas of the city with existing design guidelines. Adaptive reuse of large buildings and new infill construction of mixed-use buildings is preferred.

Neighborhood Mixed Use. Vibrant neighborhoods that allow for a mix of residential dwelling unit types, commercial services, parks and community facilities. This district reflects the walkable and historic nature of Utica's neighborhoods. Commercial uses in the NMU District compliment the dense residential neighborhoods in the adjacent RM neighborhoods.

Residential Mixed. Compact residential neighborhoods that provide a variety of housing options reflective of the needs of all residents. Primarily single and two-family structures and some multifamily structures that are smoothly integrated into the fabric of existing neighborhoods.

Residential Single. Low density residential zones where the primary use is single family homes. Lot sizes vary from medium to large. Streets are lined with sidewalks and ample greenery.

Industry. A district designed to diversify and strengthen the local economic base by allowing for light manufacturing, assembly and fabrication, including small scale or specialized industrial operations, office including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products general retail.

Industrial Mixed Use. A district designed to diversify and strengthen the local economic base by allowing for light manufacturing, assembly and fabrication, including small scale or specialized industrial operations, office including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products general retail, along with residential uses.

Planned Development. The Planned Development District is both a fixed and floating district intended to provide flexible land use and design regulations that allow for unique development that conforms to the long-range vision of the city and is harmonious with the surrounding district.

Mixed Use Campus. Mixed Use Campus is intended for the re-use of existing institutional and campus type facilities throughout the city. The existing layout of such parcels and buildings requires a flexible approach to redevelopment that respects the unique characteristics of the parcel and the surrounding neighborhoods.

Land Conservation. This district is designed to protect the health, safety and general welfare, reduce impacts of flooding on homes and businesses, and to protect the ecosystem of the floodplain. It also contains active and passive recreational areas in the city.

Sec. 2-29-150. (Reserved)

ARTICLE IV
District Regulations

DIVISION 1

Sec. 2-29-152 In General.

No structure shall hereafter be erected and no existing structure shall be moved, altered, added to or enlarged, nor shall any land or structure be used or arranged to be used for any purpose other than what is included among the uses listed in the following tables as permitted in the zoning district in which the structure or land is located, nor shall any land or structure be used in any manner contrary to any other requirements specified in this chapter.

Sec. 2-29-153 Plans and buildings previously approved.

Nothing in this chapter shall be deemed to require any change to the plans or buildings approved prior to the effective date of this chapter.

Sec. 2-29-154 Exemptions.

A. The following structures and uses shall be exempt from the regulations of this chapter.
   1. Wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas or water, or the collection of sewage or surface water operated or maintained by a government entity or a public utility including customary meter pedestals, telephone pedestals, distribution transformers and temporary utility facilities required during building construction, whether any such facility is located underground or aboveground, but only when such facilities are located in a street right-of-way or in an easement less than 25 feet in width. This exemption shall not include any substation located on or above the surface of the ground or any such distribution facility located in an easement of 25 feet or more in width.
   2. Railroad tracks, signals, bridge and similar facilities and equipment on a railroad right-of-way and maintenance and repair work on such facilities and equipment.
   3. The following structures may be exempt from the dimensional requirements set forth in this chapter: underground utility equipment, mailboxes, bus shelters, public bicycle shelters, or any similar structures or devices as determined by the Commissioner of Urban and Economic Development and are not incongruous with the aesthetic standards of the surrounding area.

Sec. 2-29-155 Department of Urban and Economic Development Review

A. Uses indicated with a 'D' in the accompanying Use Table require review by the Department of Urban and Economic Development and may require Planning Board Review.
B. The Department of Urban and Economic Development, in consultation with City Engineering Department, shall first review the Site Plan Review criteria listed below, as applicable. After

such review the Department shall determine if additional scrutiny by the Planning Board is warranted and may refer the application to the Planning Board for Site Plan Review.

a. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic control.
b. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
c. Location, arrangement, appearance and sufficiency of off-street parking and loading.
d. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
e. Adequacy of stormwater and drainage facilities.
f. Adequacy of water and sewage disposal facilities.
g. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
h. In the case of multifamily dwellings, the adequacy of usable open space for play areas and informal recreation.
i. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
j. Adequacy of fire lanes and other emergency zones and the provisions of fire hydrants.
k. Special attention to the adequacy of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
l. Overall sensitivity to the environment.

Sec. 2-29-156 Use Table

C. The accompanying Use Table lists the permitted uses of land and buildings for the various zoning districts.
D. The Use Table lists one of the following for each use within each District:
    a. P – Use requires review by the City of Utica Codes Department
    b. D – Use requires review by the Department of Urban and Economic Development and may require Planning Board Review
    c. S and SP – Use requires City of Utica Codes Department, Department of Urban and Economic Development, and Planning Board Review
    d. Blank – Use is not permitted
E. All uses allowed as a principal use are allowed as accessory uses.

a. RESIDENTIAL	CBD	UMU	NMU	RM	R1	I	IMU	LC	MUC	Supp Regs
Dwelling, Single Family Detached			P	P	P					
Dwelling, Single Family Attached			P	P						
Dwelling, Two Family			P	P						
Dwelling, Multi-Family		P	P	S					P	
Dwelling, Apartment Buildings	S	S	S	SP			S		S	
Dwelling, Accessory Unit			P	P	SP					X
Dwelling, Mixed-Use (Small)	P	P	P				P			
Home Occupation, Minor	P	P	P	P	P		P		P	X
Home Occupation, Major		P	P	S			P		P	X
Community Residential Facility/Group Home			SP	SP	SP				S	
Student Housing	S	S	P				P		P	
Live-Work Unit	S	S	D				P			
b. LODGING	**CBD**	**UMU**	**NMU**	**RM**	**R1**	**I**	**IMU**	**LC**	**MUC**	**Supp Regs**
Bed and Breakfast (Up to 5 rooms)	P	P	P							
Boarding or Rooming House	P	P	P							
Fraternities/Sororities									P	
Hotel/Motel (No room limit)	S	S					S		S	
Inn (Up to 12 rooms)	S	S	SP						S	
Short Term Rental	D	D	D	SP			P			
c. COMMERCIAL	**CBD**	**UMU**	**NMU**	**RM**	**R1**	**I**	**IMU**	**LC**	**MUC**	**Supp Regs**
Adult Use						S	S			
Addiction Clinic	SP	SP	SP			SP				
Extended Stay Addiction Clinic							SP		SP	
Amusement, Recreation, or Entertainment (Indoor)	D	P	S			SP	S		S	
Amusement, Recreation, or Entertainment (Outdoor)	S	S	S				S		S	
Bar, Restaurant, or Café	P	P	P	SP		P	P		S	
Brewery (Industrial)						P				
Brewery (Micro)	P	P	S			P	P		P	
Day Care Center	P	P	P						P	
Dog Daycare	SP	SP	SP			SP	SP			X
Drive Through, Accessory	S	P	P				P		P	
Dry Cleaning Establishment		SP				SP	SP			
Family Day Care	P	P	P	P	SP					
Funeral Home		P	S							
General Retail	S	P				S	S			
Medical Care Facility	SP	SP	SP							
Mixed-Use Building (Large)	S	S	SP				S			
Neighborhood Retail	P	P	P			P	P		P	X
Health/Sport Club	D	P	SP			SP	S		P	
Nightclub/Cabaret	SP	S	SP			S	S			
Office	P	P	D			P	P		P	
Outdoor Café, Accessory	P	P	P	SP		P	P		P	
Repair Shop		S	S			P	P		P	
Smoke Shop	P	P	P				P			

District	
CBD	Central Business District
UMU	Urban Mixed-Use
NMU	Neighborhood Mixed-Use
RM	Residential Mixed
R1	Residential Single
I	Industrial
IMU	Industrial Mixed-Use
LC	Land Conservation
MUC	Mixed-Use Campus

Key To Symbols	
P	Permitted By Right
D	Department Review
S	By Site Plan Review (Article X. Division 3)
SP	By Special Use Permit (Article X, Division 4) and Site Plan Review
Blank	Not Allowed
X	Supplemental Regulations

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c. COMMERCIAL	CBD	UMU	NMU	RM	R1	I	IMU	LC	MUC	Supp Regs
Private Clubs	D	P				SP	P		P	
Shopping Center		D	D			SP	D			
Service Establishment	P	P	D	SP		SP	P		P	
Theater	S	S	S			SP	S		P	
Vending Lot	SP	SP	SP				SP		P	
Marijuana Dispensaries/Retail	SP	SP					SP			
d. AUTOMOTIVE	**CBD**	**UMU**	**NMU**	**RM**	**R1**	**I**	**IMU**	**LC**	**MUC**	**Supp Regs**
Auto repair		S				P	P			X
Autobody Repair		S				P	P			X
Car Wash		S				S	S			X
Gasoline/Convenience Station		SP	SP			S	S			X
Parking Structure	S	S	SP			S	S		S	
Vehicle Sales/Rental/Storage		S				S	S			X
Vehicle Charging Station	P	P	P	P		P	P		P	
Parking Area			P	P		P	P			
Parking Lot	P	P	S			S	D		P	

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e. MUNICIPAL/CIVIC	CBD	UMU	NMU	RM	R1	I	IMU	LC	MUC	Supp Regs
Cemetery								SP		
Community Center	D	P	D	SP						
Convention Center	S	SP				S	S		S	
Municipal Parks	P	P	P	P	P			P	P	
Museum	P	P	P				P		P	
School: College, University or Trade	S	S	SP			S	S		S	
School: Pre-School, Elementary, Middle, High	S	S	S	S	S				S	
Religious Use	P	S	S	S	S	S	S		P	
Essential Services	P	P	P	P	P	P		P	P	X
Emergency Services	P	P	P	P	P	P			P	X
Zoo								S		
f. INDUSTRIAL	**CBD**	**UMU**	**NMU**	**RM**	**R1**	**I**	**IMU**	**LC**	**MUC**	**Supp Regs**
Composting Facility						SP		SP		
Dispatch Service or Freight Truck Terminal						SP				
Industrial Facility						P	P			
Storage Yard						S				
Technology/ Research Facility	S	S				P	P		P	
Warehouse/ Wholesale Distribution						P	P			
Self Storage Facility		SP				P	P			
g. OTHER/AGRICULTURE	**CBD**	**UMU**	**NMU**	**RM**	**R1**	**I**	**IMU**	**LC**	**MUC**	**Supp Regs**
Animal Clinic/Veterinary Hospital		SP	SP			SP	SP			X
Greenhouse		P	SP			P	P		P	X
Kennel, Commercial		SP				SP	SP			X
Agriculture, Personal				P	P		P			
Agriculture, Urban		P	SP			P	P		P	X
Marijuana Cultivation/Manufacturing/Packaging						SP	SP			X
h. ENERGY	**CBD**	**UMU**	**NMU**	**RM**	**R1**	**I**	**IMU**	**LC**	**MUC**	**Supp Regs**
Geothermal	P	P	P	P	P	P	P	SP	P	
Public Utility						P	P	P	S	
Solar, Accessory	P	P	P	P	P	P	P	P	P	X
Solar, Large Scale/Farm						S	S	S	S	X

District	
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Sec. 2-29-156 Form-Based Dimensional Tables

The accompanying tables provide graphic examples and dimensional requirements for each of the zoning districts.

Sec. 2-29-157 **through Sec. 2-29-170. (Reserved)**

Central Business District - CBD

1. Purpose

Highest density with the greatest variety of uses including buildings of regional importance. New infill development should reinforce the urban character.

2. Description

Buildings are of unlimited height there are no minimum parking requirements. Maximum lot coverage is 100%

3. Frontage Elements

Only the following frontage elements indicated in BOLD are allowed:

Stoop Porch Lightwell **Awning**

4. Lot Dimensions

A	Lot area (min)	NO MIN
B	Lot width (min/max)	10 ft
C	Lot coverage (max - corner)	90%
D	Accessory Structure max total footprint	n/a

5. Building Setbacks

A	Front yard (min/max)	0 ft / 10 ft
B	Facade length (max)	n/a
C	Side yards (min total)	n/a
D	Rear yard (min)	n/a
E	Parking Setback	5 ft
F	Accessory Structure	n/a

6. Building Height

A	Building Height (max)	n/a
B	First Story Minimum Height	12 ft
C	Story Height (min)	9 ft
D	Accessory Structure Height	n/a

7. Transparency

A	Ground floor transparency, front facade (min)	75%
B	Ground floor transparency, corner side facade (min)	50%
C	Upper floor transparency, front and corner side facades (min)	30%

8. Pedestrian Access

A	Main entrance location (required)	Facing Sidewalk
B	Functional entry spacing	30 ft max

9. Building Articulation

A	Vertically oriented projection or recess no greater than 30 ft apart. Exceptions: not required above 5th story or where windows are consistently recessed 4 in. or more.
B	A horizontal projection is required between the first and third stories.
C	Any building taller than 50 ft must have a 4 ft minimum front facade stepback between 20 ft minimum and 60 ft maximum above grade.
D	***Stepback Bonus:** Stepbacks greater than 8 ft allow for additional stories with a floor area no more than 3 times the total area of the stepback.

10. Other Standards

max 12 ft frontage unbuilt

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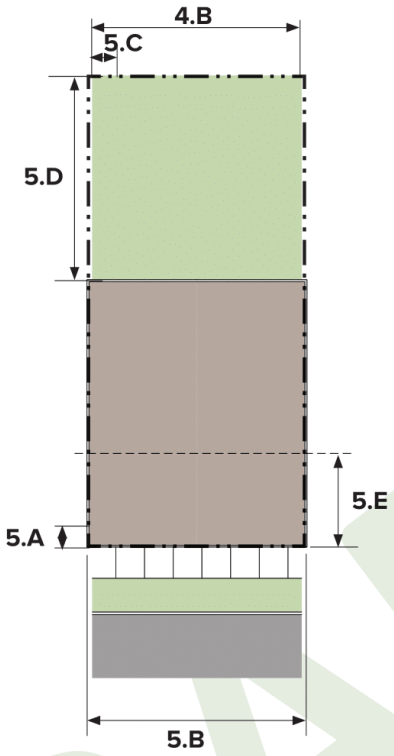
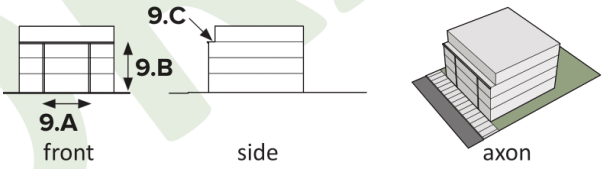
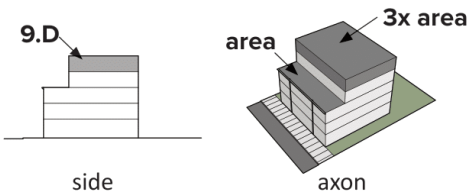




Stepback Bonus



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Urban Mixed Use - UMU

1. Purpose

High density commercial and residential area. Contains many of the historic areas and areas of the city with existing design guidelines. Adaptive reuse of large buildings and new infill construction of mixed use buildings is preferred

2. Description

Buildings are 3-6 stories high, parking requirements are flexible. Maximum lot coverage is roughly 75%.

3. Frontage Elements

Only the following frontage elements indicated in BOLD are allowed:

Stoop Porch Lightwell **Awning**

4. Lot Dimensions

A	Lot area (min)	NO MIN
B	Lot width (min/max)	10 ft
C	Lot coverage (max - corner)	90%
D	Accessory Structure max total footprint	n/a

5. Building Setbacks

A	Front yard (min/max)	0 ft / 12 ft
B	Facade length (max)	n/a
C	Side yards (min total)	n/a
D	Rear yard (min)	n/a
E	Parking Setback	5 ft
F	Accessory Structure	n/a

6. Building Height

A	Building Height (max)	n/a
B	First Story Minimum Height	12 ft
C	Story Height (min)	9 ft
D	Accessory Structure Height	n/a

7. Transparency

A	Ground floor transparency, front facade (min)	60%
B	Ground floor transparency, corner side facade (min)	30%
C	Upper floor transparency, front and corner side facades (min)	30%

8. Pedestrian Access

A	Main entrance location (required)	Facing Sidewalk
B	Functional entry spacing	30 ft max

9. Building Articulation

A	Vertically oriented projection or recess no greater than 30 ft apart. Exceptions: not required above 5th story or where windows are consistently recessed 4 in. or more.
B	A horizontal projection is required between the first and third stories.
C	Any building taller than 50 ft must have a 4 ft minimum front facade stepback between 20 ft minimum and 60 ft maximum above grade.
D	***Stepback Bonus:** Stepbacks greater than 8 ft allow for additional stories with a floor area no more than 3 times the total area of the stepback.

10. Other Standards

max 12 ft frontage unbuilt

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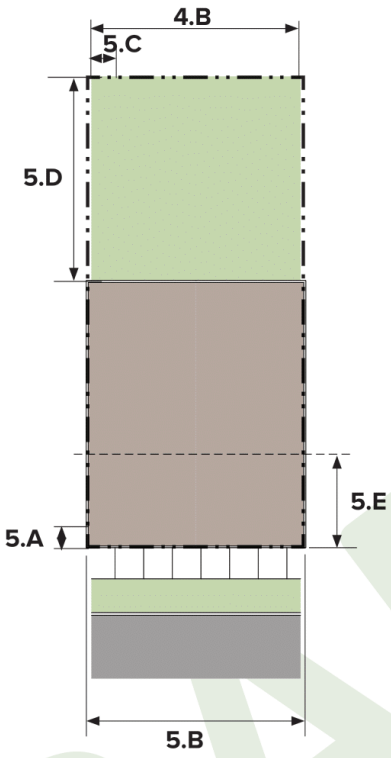
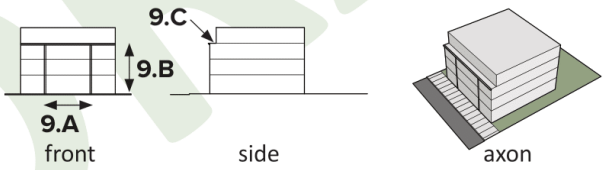
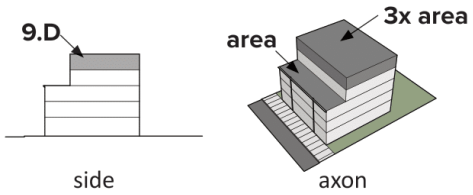




Stepback Bonus



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Neighborhood Mixed Use - NMU

1. Purpose

Vibrant neighborhoods that allow for a mix of residential dwelling unit types, commercial services, parks and community facilities. This district reflects the walkable and historic nature of Utica's neighborhoods. Commercial uses in the NMU District compliment the dense residential neighborhoods in the adjacent RM neighborhoods.

2. Description

Buildings are 2-4 stories. Front setbacks are minimal. Vertical Mixed Use is encouraged. Private parking is subordinate to the public realm.

3. Frontage Elements

Only the following frontage elements indicated in BOLD are allowed:

Stoop **Porch** **Lightwell** **Awning**

4. Lot Dimensions

A	Lot area (min)	1,000 sf
B	Lot width (min/max)	10 ft / 100 ft
C	Lot coverage (max - corner)	70% - 90%
D	Accessory Structure max total footprint	n/a

5. Building Setbacks

A	Front yard (min/max)	Average
B	Facade length (max)	60 ft
C	Side yards (min total)	10 ft
D	Rear yard (min)	10 ft
E	Parking Setback	10 ft
F	Accessory Structure	n/a

6. Building Height

A	Building Height (max)	4 Stories*
B	First Story Minimum Height	9 ft
C	Story Height (min)	9 ft
D	Accessory Structure Height	n/a

7. Transparency

A	Ground floor transparency, front facade (min)	50%
B	Ground floor transparency, corner side facade (min)	30%
C	Upper floor transparency, front and corner side facades (min)	30%

8. Pedestrian Access

A	Main entrance location (required)	Facing Sidewalk
B	Functional entry spacing	n/a

9. Building Articulation

A	Vertically oriented projection or recess no greater than 30 ft apart. Exceptions: not required above 5th story or where windows are consistently recessed 4 in. or more.
B	A horizontal projection is required between the first and third stories.
C	Any building taller than 50 ft must have a 4 ft minimum front facade stepback between 20 ft minimum and 60 ft maximum above grade.
D	***Stepback Bonus:** Stepbacks greater than 8 ft allow for additional stories with a floor area no more than 3 times the total area of the stepback.

10. Other Standards

max 12 ft frontage unbuilt

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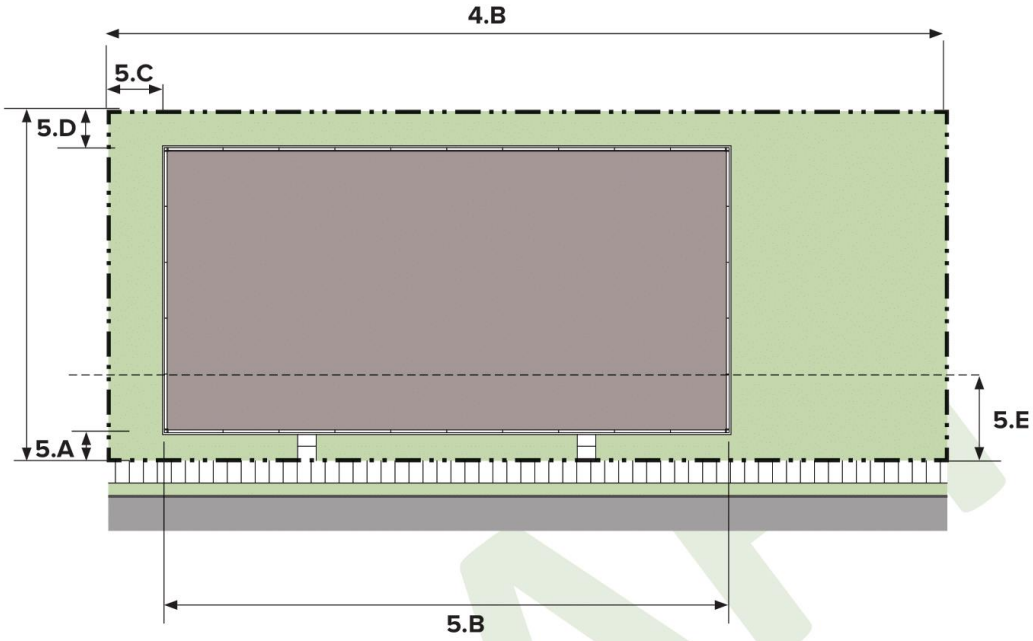
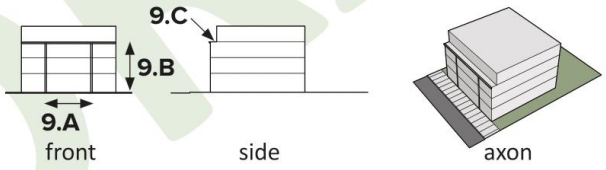
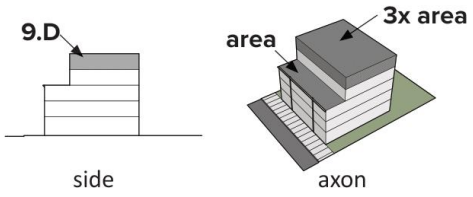




Stepback Bonus



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Residential Mixed - RM

1. Purpose

Compact residential neighborhoods that provide a variety of housing options reflective of the needs of all residents. Primarily single and two family structures and some multifamily structures that are smoothly integrated into the fabric of existing neighborhoods.

2. Description

Buildings are 2-3 stories. Lot sizes are small to medium.

3. Frontage Elements

Only the following frontage elements indicated in BOLD are allowed:

Stoop **Porch** Lightwell Awning

4. Lot Dimensions

A	Lot area (min)	1000 sf
B	Lot width (min/max)	10ft - 100 ft
C	Lot coverage (max - corner)	70% - 90%
D	Accessory Structure max total footprint	900 sf

5. Building Setbacks

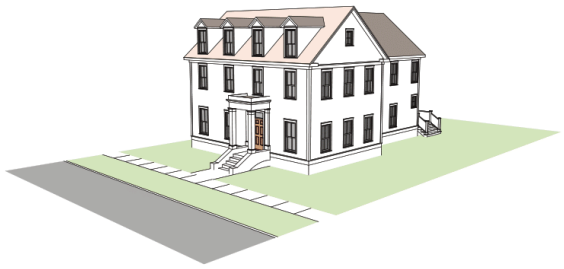
A	Front yard (min/max)	Average
B	Facade length (max)	n/a
C	Side yards (min total)	10 ft
D	Rear yard (min)	10 ft
E	Parking Setback	Greater than primary facade
F	Accessory Structure	5 ft side and rear

6. Building Height

A	Building Height (max)	3 Stories
B	First Story Minimum Height	9 ft
C	Story Height (min)	9 ft
D	Accessory Structure Height	Less than primary building

7. Transparency

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



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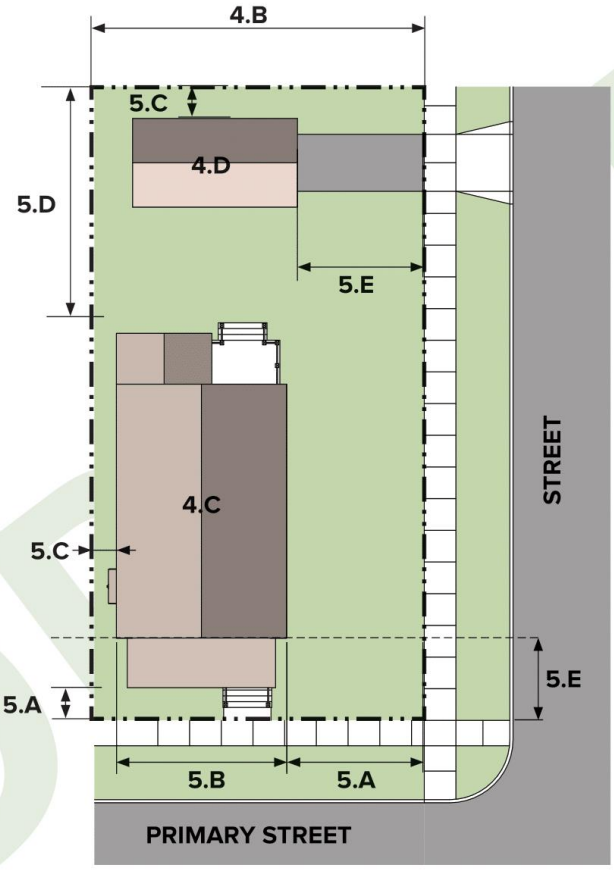

4.B
5.C
4.D
5.D
5.E
4.C
5.C
STREET
5.E
5.A
5.B
5.A
PRIMARY STREET

Residential Single - R1

1. Purpose

Low density residential zones where the primary use is single family homes. Lot sizes vary from medium to large. Streets are lined with sidewalks and ample greenery.

2. Description

Buildings are 1-2 stories. Front setbacks are varied.

3. Frontage Elements

Only the following frontage elements indicated in BOLD are allowed:

Stoop **Porch** Lightwell Awning

4. Lot Dimensions

A	Lot area (min)	5,000 sf
B	Lot width (min/max)	50 ft - 200 ft
C	Lot coverage (max - corner)	40%
D	Accessory Structure max total footprint	900 sf

5. Building Setbacks

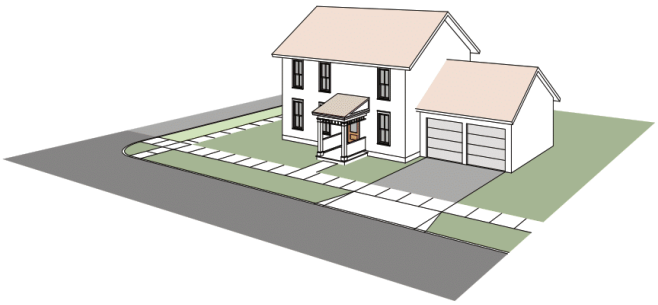
A	Front yard (min/max)	15 ft / none
B	Facade length (max)	n/a
C	Side yards (min total)	20 ft
D	Rear yard (min)	15 ft
E	Parking Setback	none
F	Accessory Structure	5 ft side and rear

6. Building Height

A	Building Height (max)	3 Stories
B	First Story Minimum Height	n/a
C	Story Height (min)	n/a
D	Accessory Structure Height	Less than primary building

7. Transparency

A	Ground floor transparency, front facade (min)	n/a
B	Ground floor transparency, corner side facade (min)	n/a
C	Upper floor transparency, front and corner side facades (min)	n/a



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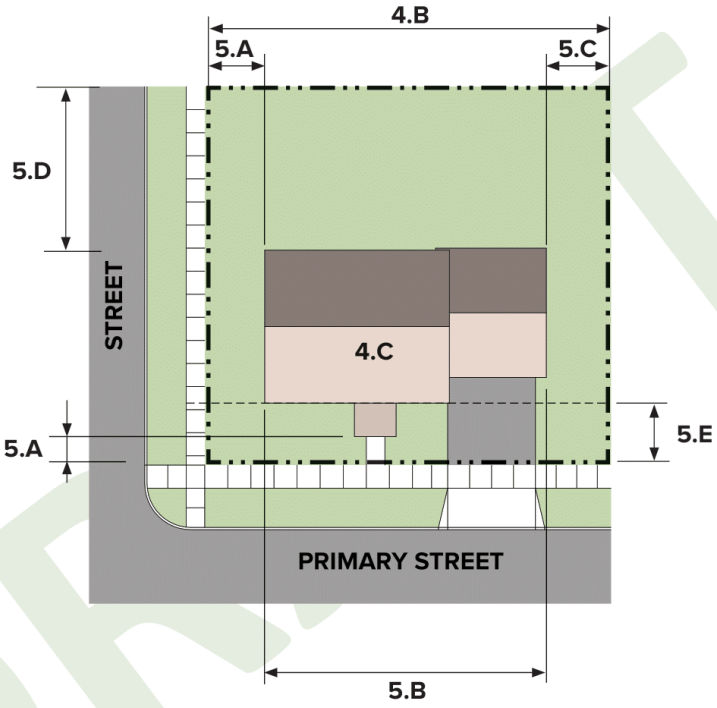

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Industrial - I

1. Purpose

A district designed to diversify and strengthen the local economic base by allowing for light manufacturing, assembly and fabrication, including small scale or specialized industrial operations, office including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products general retail.

2. Description

Multi-story buildings with on-site parking for automobiles and/or trucks.

3. Frontage Elements

Only the following frontage elements indicated in BOLD are allowed:

Stoop Porch **Lightwell** **Awning**

4. Lot Dimensions

A	Lot area (min)	20,000 sf
B	Lot width (min/max)	50ft / none
C	Lot coverage (max - corner)	60%
D	Accessory Structure max total footprint	n/a

5. Building Setbacks

A	Front yard (min/max)	25 ft / none
B	Facade length (max)	n/a
C	Side yards (min total)	10 ft + buffer
D	Rear yard (min)	10 ft + buffer
E	Parking Setback	none
F	Accessory Structure	n/a

6. Building Height

A	Building Height (max)	4 Stories
B	First Story Minimum Height	n/a
C	Story Height (min)	n/a
D	Accessory Structure Height	n/a

7. Transparency

A	Ground floor transparency, front facade (min)	n/a
B	Ground floor transparency, corner side facade (min)	n/a
C	Upper floor transparency, front and corner side facades (min)	n/a

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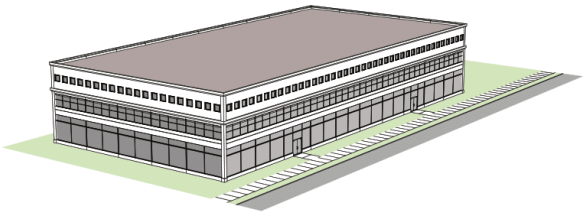

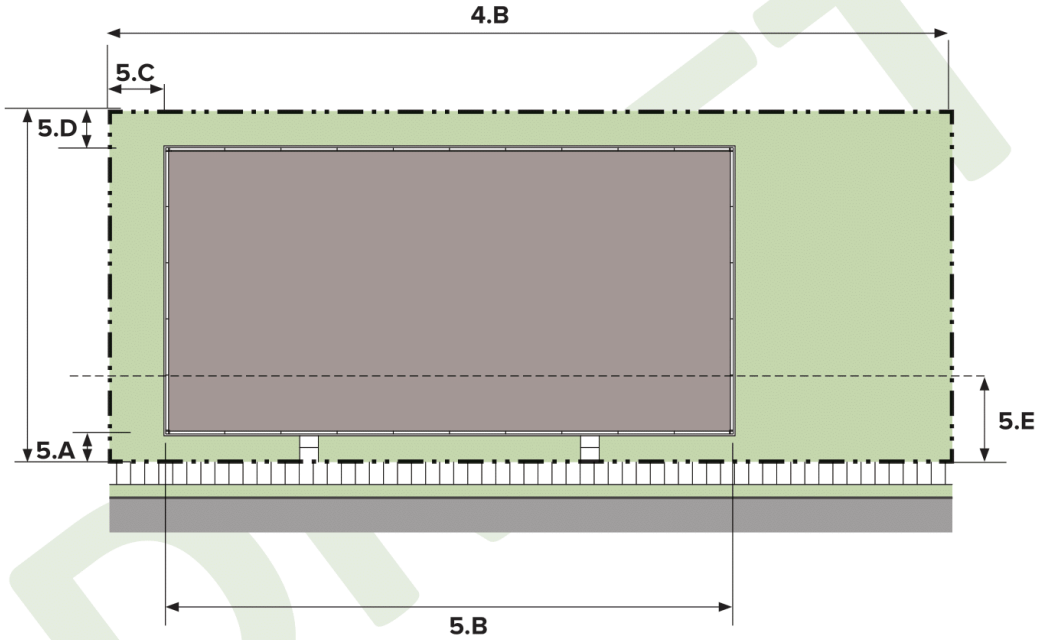

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Mixed Use Campus- MUC

1. Purpose

Mixed Use Campus is intended for the re-use of existing institutional and campus type facilities throughout the city. The existing layout of such parcels and buildings requires a flexible approach to redevelopment that respects the unique characteristics of the parcel and the surrounding neighborhoods.

2. Description

This district will apply to existing large institutional campuses that will either be adaptively reused or configured to blend into the existing urban fabric.

3. Frontage Elements

Only the following frontage elements indicated in BOLD are allowed:

Stoop **Porch** Lightwell **Awning**

4. Lot Dimensions

A	Lot area (min)	1,000 sf
B	Lot width (min/max)	10 ft / 100 ft
C	Lot coverage (max - corner)	70% - 90%
D	Accessory Structure max total footprint	n/a

5. Building Setbacks

A	Front yard (min/max)	Average
B	Facade length (max)	150 ft
C	Side yards (min total)	10 ft
D	Rear yard (min)	10 ft
E	Parking Setback	10 ft
F	Accessory Structure	n/a

6. Building Height

A	Building Height (max)	4 Stories
B	First Story Minimum Height	9 ft
C	Story Height (min)	9 ft
D	Accessory Structure Height	n/a

7. Transparency

A	Ground floor transparency, front facade (min)	65%
B	Ground floor transparency, corner side facade (min)	30%
C	Upper floor transparency, front and corner side facades (min)	30%

8. Pedestrian Access

A	Main entrance location (required)	Facing Sidewalk
B	Functional entry spacing	n/a

9. Building Articulation

A	Vertically oriented projection or recess no greater than 30 ft apart. Exceptions: not required above 5th story or where windows are consistently recessed 4 in. or more.
B	A horizontal projection is required between the first and third stories.
C	Any building taller than 50 ft must have a 4 ft minimum front facade stepback between 20 ft minimum and 60 ft maximum above grade.
D	***Stepback Bonus:** Stepbacks greater than 8 ft allow for additional stories with a floor area no more than 3 times the total area of the stepback.

10. Other Standards

max 12 ft frontage unbuilt

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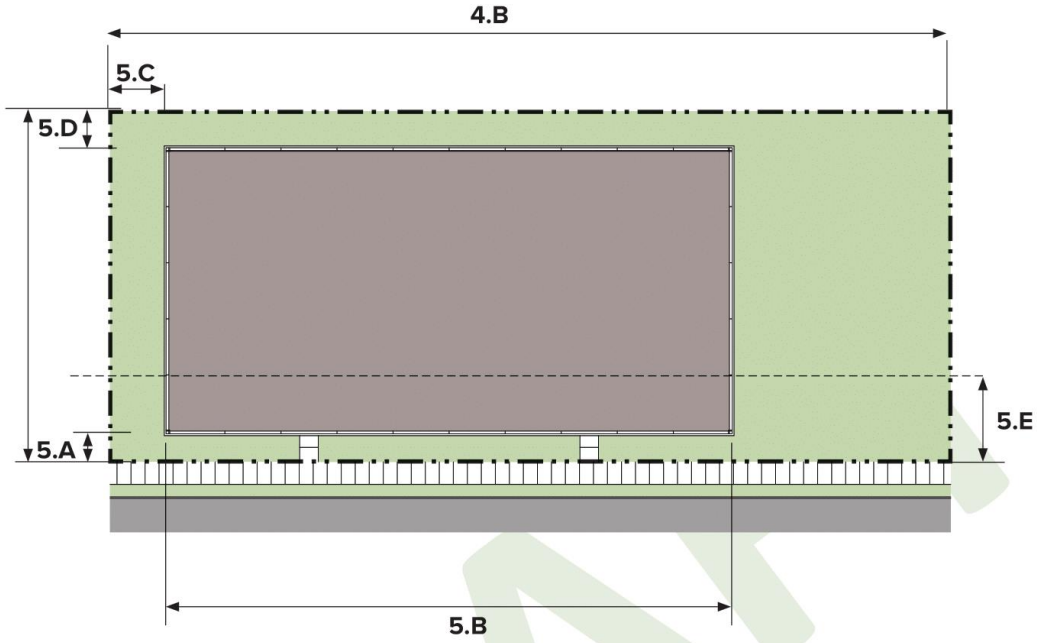
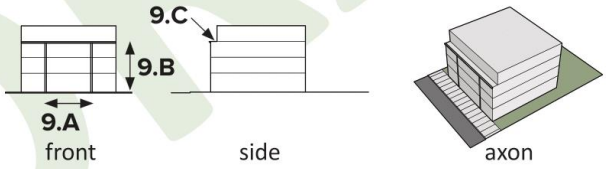
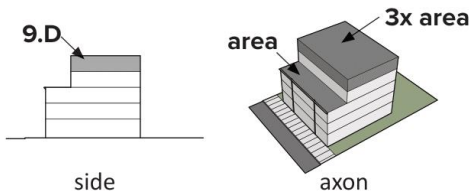




Stepback Bonus



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Industrial Mixed Use - IMU

1. Purpose

A district designed to diversify and strengthen the local economic base by allowing for light manufacturing, assembly and fabrication, including small scale or specialized industrial operations, office including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products general retail, along with residential uses..

2. Description

Multi-story buildings with on-site parking for automobiles and/or trucks.

3. Frontage Elements

Only the following frontage elements indicated in BOLD are allowed:

Stoop Porch **Lightwell** **Awning**

4. Lot Dimensions

A	Lot area (min)	20,000 sf
B	Lot width (min/max)	50ft / none
C	Lot coverage (max - corner)	60%
D	Accessory Structure max footprint	n/a

5. Building Setbacks

A	Front yard (min/max)	25 ft / none
B	Facade length (max)	n/a
C	Side yards (min total)	10 ft + buffer
D	Rear yard (min)	10 ft + buffer
E	Parking Setback	none
F	Accessory Structure	n/a

6. Building Height

A	Building Height (max)	4 Stories
B	First Story Minimum Height	n/a
C	Story Height (min)	n/a
D	Accessory Structure Height	n/a

7. Transparency

A	Ground floor transparency, front facade (min)	50%
B	Ground floor transparency, corner side facade (min)	30%
C	Upper floor transparency, front and corner side facades (min)	30%

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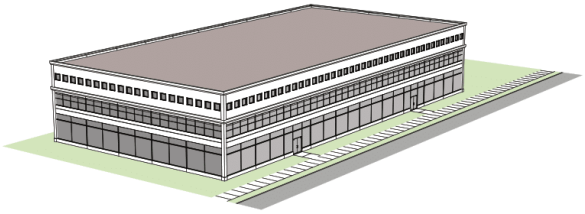

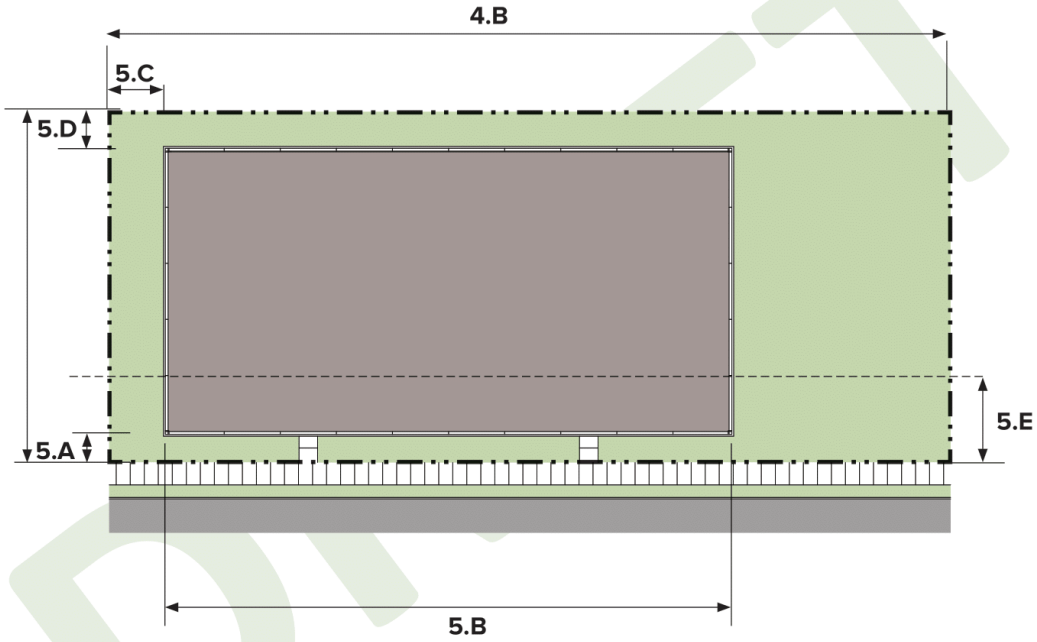

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ARTICLE V
Sign Regulations

DIVISION 1 **In General**

Sec. 2-29-311 **Purpose, intent and applicability.**

A. Purpose. The purpose of this division is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public right-of-way, provide more visual open space, to curb the deterioration of the community's appearance and attractiveness.

B. Applicability. No replacement, modification or installation of a new sign shall be permitted unless in conformance with this article.

C. All signs in the Scenic and Historic District require Scenic and Historic Commission approval.

Sec. 2-29-312 **General regulations.**

The following regulations shall apply to all signs:

A. All signs shall be constructed in accordance with the New York State Uniform Fire Prevention and Building Code, shall be maintained in a good condition, shall be kept free of defects or hazards and shall not be allowed to become dilapidated or deteriorated. Excessively weathered or faded signs shall be removed or put into a good state of repair. All non-operative or broken interior lighted illuminated signs shall be repaired.

B. Signs may be erected or maintained only in connection with permitted uses or uses with a valid certificate of non-conformity.

C. Signs shall not be erected within the public right-of-way, which for the purpose of this section shall be construed to extend to and include the sidewalks on both sides of every street having same.

D. No sign shall obstruct any fire escape (or door leading thereto) or window, nor shall any sign be attached to a fire escape.

E. All signs shall be plainly marked with the name and address of the applicant and/or property owner relative to said sign in a manner prescribed by the Department of Codes Enforcement.

F. Flashing, rotating, revolving, reflecting, intermittent portable or mobile signs shall be prohibited.

G. Illumination of signs shall be so arranged so as to prevent direction thereof upon a public street or adjacent premises that may constitute a traffic hazard or public nuisance.

H. Snipe signs painted, erected, affixed or maintained on any bench, utility pole, tree, stone or any natural object in the public right-of-way shall be prohibited.

I. No rooftop balloons shall be allowed.

J. No off-premise signs are allowed. This does not apply to billboards.

Sec. 2-29-313 **Definitions.**

ABANDONED SIGN

A sign which has not correctly directed at any person or advertising a bona fide business, lessor, owner, product or activity conducted or product available on the premises where such sign is displayed.

ADVERTISING/PROMOTIONAL SIGN

Any sign used to promote specific products, brands, events, sales or other promotions available in connection with the business operating on the property.

AWNING/CANOPY SIGN

A sign attached to or made a part of a canopy, including marquees and awnings either attached to a building or freestanding.

BILLBOARD

Any sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

DIRECTIONAL SIGN

A noncommercial sign beneficial to public safety or traffic control in connection with a use on the lot on which it is displayed or beneficial to public convenience and safety in connection with directions to the location of a municipal, religious or noncommercial public facility.

DWELL TIME

The number of seconds between changes in the appearance of an electronic message sign.

ELECTRONIC (DIGITAL) MESSAGE CENTER

An electronic message center (EMC), typically comprising a liquid crystal diode (LCD), light-emitting diode (LED), plasma, light bulbs, or other digital illuminated display that contains one or more messages. An electronic message center is different from an illuminated sign in that the illumination of the display creates the message, rather than an internal or external light source illuminating the message. Also known as Electronic Sign or Digital Sign.

FREESTANDING SIGN

A detached sign which is supported by one or more columns, uprights, poles or braces extended from the ground or from an object on the ground, or a detached sign which is erected on the ground, provided that no part of the sign is attached to any part of any building, structure or other sign.

FOOTCANDLE (FC):

A measurement of the amount of light reaching an object. A foot candle is the measurement of the intensity of one lumen of light falling on one square foot of surface area one foot away from the source.

ILLUMINATED SIGN

Any sign illuminated by electricity, gas or other artificial light either from the interior or exterior of the sign, and which includes reflective and phosphorescent light.

INCIDENTAL SIGN

Any small sign, emblem or decal of a noncommercial nature without advertising and intended primarily for the safety and convenience of the public.

MESSAGE CHANGE INTERVAL

Also known as 'twirl time'. The amount of time to transition between two successive messages on an electronic display sign. (note: not to be confused with 'Dwell Time' which is the number of seconds *between* message change intervals.)

PORTABLE or MOBILE SIGN

A sign, whether on its own trailer, wheels, or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or other sign. It does not apply to sidewalk signs or signs or lettering on buses, taxis, or vehicles operating during the normal course of business.

PROJECTING SIGN

A sign which projects more than 15 inches from a building face and has copy on more than one side.

SIGN

Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located outdoors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public.

MULTI TENANT

An identification sign for a commercial site with multiple tenants displaying the names of each tenant on the site.

ROOFTOP SIGN

A sign erected on a vertical framework supported by or located entirely over the roof of a building.

SIDEWALK SIGN

A moveable sign not secured or attached to the ground or surface upon which it is located.

SNIPE SIGN

Any sign of any material whatsoever that is attached in any way to a utility pole, tree, or any object located or situated on public or private property.

TEMPORARY SIGN

Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed before or after an event.

VIDEO DISPLAY

An electronic changeable message sign using instantaneous transitions and giving the illusion of motion, with no meaningful dwell time between changes in the display.

WALL SIGN

A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall, and not extending more than 15 inches from the face of such wall.

WINDOW SIGN

A sign visible from a sidewalk, street, highway or other public place, painted or affixed on glass or other window material, or located inside within six feet of the window, but not including incidental advertising within an office or business establishment.

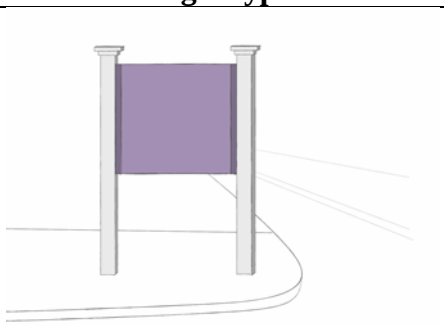
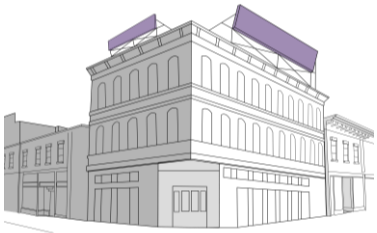
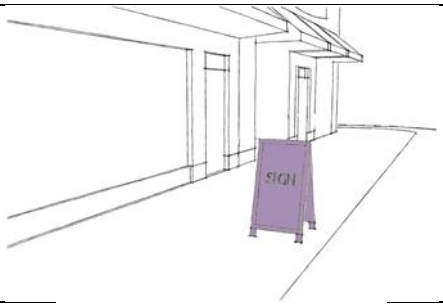
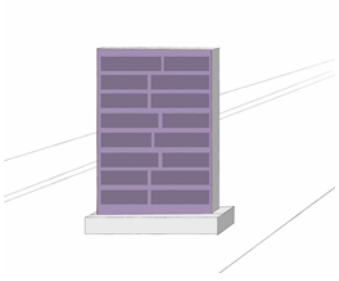
DIVISION 2 **Specific Regulations Regarding Types of Signs**

Sec. 2-29-340 **Sign Types and Sizes.**

(1) 'X' indicates sign type is not allowed.

(2) Only one multi-tenant sign or freestanding sign is allowed per lot regardless of frontage.

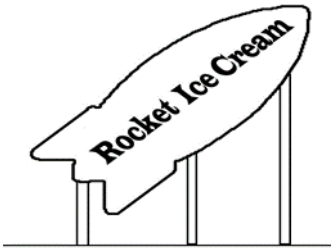
	Sign Type		R1/RM	NMU	UMU	CBD	I1/I2	LC
Temporary			Permitted: see temporary sign section					
Wall		Area	X	40 sq. ft.	60 sq. ft.		90 sq. ft.	X
		Height	X	15 ft.	20 ft.		25 ft.	X
Awning/Canopy		Area	X	15 sq. ft.	40 sq. ft.		80 sq. ft.	X
		Height	X	12 ft.	12 ft.		15 ft.	X

	Sign Type		R1/RM	NMU	UMU	CBD	I1/I2	LC
Freestanding		Area	X	60 sq. ft.	60 sq. ft.	60 sq. ft.	120 sq. ft.	X
		Height	X	15 ft.	25 ft.	20 ft.	25 ft.	X
Projecting		Area	X	15 sq. ft.				X
		Height	X					X
Rooftop		Area	X	X	X	See below		X
		Height	X	X	X	See below		
Sidewalk		Area	X	6 sq. ft.				X
		Height	X	5 ft.				X
Multi-Tenant		Area	X	80 sq. ft.			90 sq. ft.	X
		Height	X	20 ft.			25 ft.	X
Window		Area	X	25% of total glass area of the window on which the sign is displayed				X

	Sign Type		R1/RM	NMU	UMU	CBD	I1/I2	LC
		Height	X					
Total Number of signs per Lot Frontage			X	2	4		6	X

Sec. 2-29-341 Measurement of Sign Display Area

A. The area of a sign shall be measured from the outer dimensions of the frame, trim, or molding by which the sign is enclosed, where such features exist, or from the outer edge of the signboard where none exist.
B. When a sign consists of individual letters, symbols or characters, or where the overall shape of the sign is irregular, the area shall be computed as the area of the smallest rectangle which encloses all of the letters, symbols, characters or sign area. (See Figure)
C. The maximum area of freestanding, multi-tenant and projecting signs includes both sides of a two-sided sign.



Sec. 2-29-314 **through Sec. 2-29-320. (Reserved)**
Sec. 2-29-329 **through Sec. 2-29-339. (Reserved)**

Sec. 2-29-341 **Billboard signs.**

Billboard signs shall be granted a permit upon compliance with the following provisions:

A. Billboard signs shall be considered a special use and will require a special use permit.

B. Billboard signs shall be allowed only in the I and IMU Zoning Districts.

C. No billboard sign shall be permitted within 300 feet of any use in the residential category as listed in the use table or within 750 feet of any use in the municipal/civic category as listed in the use table.

D. There must be a minimum of 1,000 feet between billboards on primary roads and a minimum of 500 feet between billboards on secondary roads and state-controlled access highways, and this distance shall be measured in all directions.

E. No billboard shall exceed 30 feet in height from ground level or 400 square feet in sign area.

F. No billboard shall be painted upon the surface area of any building.

G. No billboard shall be erected on the top of any building.

H. All billboard signs shall conform to the dimensional requirements of the applicable zoning district.

I. The name of the person(s) erecting and maintaining such sign shall be plainly marked on such sign in a manner prescribed by the Department of Codes Enforcement.

Sec. 2-29-X Window Signs

No window signs shall be permitted to be affixed to any exterior wall, door or window surface.

Sec. 2-29-343 **Awning/Canopy signs.**

A. Canopy signs shall not project horizontally beyond the supporting canopy.

B. The maximum area of canopy signage shall be six square feet.

C. The bottom edge of a canopy sign shall not be less than eight feet above the sidewalk or ground elevation over which the canopy extends.

Sec. 2-29-344 **Freestanding signs.**

A. No freestanding sign or part thereof shall project over any property line.

B. A freestanding sign shall be located only in a front yard and shall be no closer to the side lot lines than the required side yard.

C. There shall be no more than one freestanding sign permitted on any lot, regardless of the number of separate or individual businesses located on such lot.

D. No freestanding sign shall be erected on a lot containing a projecting sign.

Sec. 2-29-346 **Projecting signs.**

A. The bottom edge of or any appendage to a projecting sign shall be not less than 10 feet above the grade at the sign.

B. No projecting sign or any part thereof shall extend over any property line except where no setback is in place.

C. A projecting sign shall be permitted only on the front face of a structure.

D. A projecting sign shall not be installed on a lot containing a freestanding sign.

Sec. 2-29-348 **Illumination.**

A. All sources of illumination shall be shielded or directed in such a manner that the direct rays therefrom are not cast upon property other than the lot on which such illumination is situated.

B. Illumination shall be steady in nature, not flashing, moving or changing in brilliance, color or proximity.

C. No illumination shall be located so as to be confused with traffic control signals, either by color or proximity.

D. Illumination and illuminated signs shall not interfere with the normal enjoyment of residential uses in adjacent residential districts.

Sec. 2-29-xxx **Electronic Messaging Centers.**

All Electronic (Digital) Message Centers, excluding billboards, shall conform with the following criteria. Electronic Message Centers may be incorporated into the copy area of any permitted sign.

A. When a message is changed, it shall be accomplished in less than one-tenth ($1/10^{th}$) of a second and shall not use fading, swiping, or other animated transition methods.

B. Electronic message centers shall come equipped with dimming technology that automatically adjusts the display's brightness based on ambient light conditions.

C. The allowable nighttime brightness for digital signs is no greater than 0.3 Foot candles above ambient light conditions as measured by a foot-candle meter, when measured perpendicular to the electronic message center face at a distance determined by the following formula:

Measure distance (ft.) = √[area of EMC sign (in sq. ft.) x 100]

D. The minimum dwell time for an electronic message shall be no less than eight (8) seconds.

Sec. 2-29-xxx **Sidewalk Signs.**

A. Must be located within ten feet of primary building entrance.

B. Must not block the pedestrian route/sidewalk.

C. May not be internally or externally illuminated.

D. May not exceed four feet in height or three feet in width.

E. May not exceed one A-frame sign per business

Sec. 2-29-xxx Rooftop Signs

A. All rooftop signs shall be subject to Planning Board Site Plan Review and approval.

B. Shall consist of individual block lettering with no background or other graphics.

C. The length shall not exceed 50% of the building façade on which the sign is located.

D. The individual letters shall not exceed 10’ in height.

E. In no case shall the sign exceed 800 square feet in area.

F. In no case shall a rooftop sign be located on any building less than three (3) stories.

Sec. 2-29-349 **Temporary signs**

A. All signs of a temporary nature, except as otherwise provided by this ordinance, shall be permitted for a period not exceeding six weeks prior to any activity or event nor exceeding four days after the

activity or event. Such signs shall not exceed 16 square feet in business or industrial districts nor eight square feet in residential districts, nor be attached to fences, trees, utility poles, rocks or other parts of a natural landscape, nor be placed in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and welfare of the general public.

B. A cash deposit shall be given to the Building Inspector to insure removal of such signs upon expiration of the permit period. The Building Inspector, after seven days written notice to the permit holder to remove such signs, and after the failure of the permit holder to do so, shall cause said signs to be removed, and the cash deposit shall be forfeited to help defray the cost of removal. The seven days' written notice provided herein shall be computed from the date of mailing said notice. Said notice shall be directed to the permit holder at the address provided by the Building Inspector on the permit application.

Reserved 2-29-350 to 2-29-360

DIVISION 3 **Administration and Enforcement**

Sec. 2-29-361 **Application for a permit.**

Application for a sign permit shall be made in writing on forms provided by the Commissioner of Code Enforcement and shall contain the following information:

A. Name, address and telephone number of

   1. Applicant.

   2. Owner of the property.

B. Location of structure or real property upon which the sign is to be attached or erected.

C. Drawing (to scale) shall be submitted showing the construction details on lettering, symbols, materials, colors and/or pictorial matter composing the sign.

D. The method of illumination, if any, and the position of lighting or other extraneous devices.

E. Written consent, or a copy of the contract.

F. Notarized written permission from the property owner, if applicant is not the property owner.

G. Scaled sketch of all existing signs on the property.

Sec. 2-29-364 **Permit.**

A. Upon the filing of a completed application for a sign permit and the payment of the required fee, the Commissioner of Code Enforcement will then submit the application to the Commissioner of Urban and Economic Development for review. The Commissioner of Urban and Economic Development shall examine the plans, specifications and other information submitted including the premises on which the sign is to be erected or now exists. If it shall appear that the sign is in compliance with all the requirements of local law, the Commissioner of Urban and Economic Development will submit written approval to the Commissioner of Code Enforcement, upon which within 15 days shall issue a permit for the erection of the sign. The issuance of a permit shall not excuse the applicant from conforming

to the other laws and ordinances of the municipality.

B. If the erection of the sign authorized under any such permit has not commenced within six months from the date of the issuance, the permit shall become null and void, but may be renewed within 30 days prior to the expiration, for good cause shown, for an additional six months, upon payment of 1/2 of the original fee.

Sec. 2-29-365 **Removal of signs.**

Any sign, existing on or after the effective date of this ordinance, which no longer identifies an existing business conducted or product sold on the premises upon which sign is located, shall be removed.

A. If the Commissioner of Code Enforcement shall find that any sign regulated in the ordinance is not used, coded in advertising, is abandoned, unsafe or insecure, or is a menace to the public, the inspector shall give written notice to the named owner of the land upon which it is located, who shall remove or repair the sign within 30 days from the date of the notice. If the sign is not removed or repaired within said time period, the Building Inspector shall revoke the permit issued for such sign and may remove or repair the sign and assess the owner for all costs incurred for such service.

B. The Commissioner of Code Enforcement may cause any sign which is a source of immediate peril to persons or property to be removed immediately and without notice.

Sec. 2-29-366 **Notice.**

Whenever the Commissioner of Code Enforcement determines that there has been a violation of this article, written notice shall be served upon the applicant, sign owner, or property owner by certified mail, return receipt requested, at his or her last known address, such notice specifying the alleged violation, providing a reasonable time within which the violation is to be corrected, stating that legal remedies will be imposed upon failure to correct said violation. Such notice of violation shall automatically become a final order if the violation is not corrected within the time allowed or if an application for appeal in accordance with this chapter, is not submitted to the Commissioner of Code Enforcement within 30 days from receipt of said notice.

Sec. 2-29-367 **Removal, storage or sale of signs found to be in violation.**

Upon failure of the applicant, sign owner, or property owner to correct the cited violation within the time allowed by the Commissioner of Code Enforcement or to apply for an appeal as provided by this chapter, the Commissioner of Code Enforcement by written instruction to the Commissioner of Public Works shall direct that the violating sign be removed. Such sign shall be stored for a 30 days period during which the sign may be claimed upon proof of ownership thereof and upon payment for the reasonable cost of removal/storage as determined by said Commissioner. If the sign is not timely claimed, said Commissioner is authorized to sell the stored sign at public auction to the highest bidder or to otherwise dispose of said sign at his or her discretion and to thereupon apply the proceeds, if any, to the removal/storage costs.

Sec. 2-29-368 **through Sec. 2-29-380. (Reserved)**

ARTICLE VI
Off-Street Parking and Loading Requirements

1. Applicability

No building permit or certificate of occupancy shall be issued for the erection of a new building, the enlargement or increase in the gross floor area of an existing building, the development of a use not located in a building, or the change from one type of use to another, unless off-street parking spaces and bicycle parking are provided in accordance with this article.
Development of a surface parking area over 10 cars, alone or in conjunction with a project, requires compliance to the Low Impact Development standards below.

2. Exceptions from parking requirements

A. The following uses may be partially or wholly exempted from minimum parking requirements at the discretion of the Commissioner of Urban and Economic Development:

1. Multi-unit developments devoted primarily to affordable housing
2. Multi-unit developments devoted primarily for senior housing
3. Adaptive reuse of structures on the state or national register of historic structures
4. Non-residential uses under 3,000 square feet of GFA
5. Changes of use that do not expand the GFA by more than 500 square feet
6. The minimum automobile parking requirements shall not apply to uses in the Central Business District.
7. Accessory Dwelling Units

3. Off-Street Parking Calculations

A. Calculations for off-street parking requirements may involve two basic calculations.
   1. First, a baseline number of parking spaces shall be calculated in accordance with the parking table.
   2. Second, the number of off-street parking spaces required under Section 5 may be reduced through any individual technique or combination of techniques found in Section 6.

B. Proposed reductions in the baseline number of spaces to be provided off-street may be approved or required by the Planning Board in connection with the approval of a Site Plan review or at the granting of the Commissioner of Urban and Economic Development if no Site Plan review is required.

C. Bicycle parking calculations shall be determined by the baseline number of off-street parking spaces required. Reductions to the baseline number of off-street parking spaces required shall not reduce the number of bicycle parking spaces as required by this article.

4. Site Plan Review Standards for On-Site Parking

To ensure the overall efficiency of parking development in the City of Utica applicants proposing more than ten (10) spaces associated with non-residential, residential or mixed-use developments shall include with their applications an analysis of the opportunities to reduce the parking requirements using any of

the applicable reduction strategies in Section 6, the dimensional standards in Section 7, and landscaping design standards pursuant to Section 8 of this article.

A. The Planning Board or the Commissioner of Urban and Economic Development may reduce the required parking according to Section 6.A. unless it determines that:
   1. A surplus of spaces on a particular site will benefit the neighborhood as a whole by providing off-site sharing opportunities for other sites in the neighborhood; or
   2. The techniques for reduction of the number of off-street or on-site parking spaces available to the applicant are infeasible or would impose an undue hardship on the applicant.

5. Required Parking Spaces

A. Minimum. Minimum parking requirements are shown in the Parking Table. Where mixed use developments are proposed, the baseline parking requirement shall be calculated as the sum of the requirements for each use. Reductions in the overall number of required off-street on-site spaces can be calculated using the standards in Section 6 of this article.

B. Maximum. Any application for a surface parking lot exceeding 30 spaces shall provide the Planning Board proof that demonstrates the need for the number of spaces requested.

C. Provision of all off-street parking areas shall comply with the latest standards associated with the Americans with Disabilities Act (ADA).

D. Electric Vehicle (EV) Charging Stations – For new construction, two EV charging ports shall be installed per 10 spaces

a. RESIDENTIAL *	Spaces
Dwelling, Single Family Detached	1 per unit
Dwelling, Single Family Attached	1 per unit
Dwelling, Two Family	1 per unit
Dwelling, Multi-Family	1 per unit
Dwelling, Accessory Unit	1 per unit
Dwelling, Mixed-Use (Small)	1 per unit
Dwelling, Apartment Buildings	1 per unit
Home Occupation, Minor	0
Home Occupation, Major	0
Community Residential Facility/Group Home	.25 spaces per resident
Student Housing	.5 spaces per resident
Live-Work Unit	1 per unit
b. LODGING	**Spaces**
Bed and Breakfast (up to 5 rooms)	.5 per room
Boarding or Rooming House	.25 spaces per resident
Fraternities/Sororities	. 5 per room
Hotel/Motel (no room limit)	1 per room
Inn (up to 12 rooms)	1 per room
Short-Term Rental	See "Residential"

c. COMMERCIAL	Spaces
Adult Use	.5 per 1,000 GFA
Addiction Clinic	2 per 1,000 GFA
Extended Stay Addiction Clinic	1 per 1,000 GFA
Bar, Restaurant, or Café	3 per 1,000 GFA in excess of 3,000 GFA
Day Care Center	1 per 1,000 GFA
Dog Day Care	1 per 1,000 GFA
Drive Through, Accessory	1 per 1,000 GFA
Family Day Care	1 per 1,000 GFA
Funeral Home	1 per 1,000 GFA
General Retail	2 per 1,000 GFA
Medical Care Facility	2 per 1,000 GFA
Mixed-Use Building (Large)	2 per 1,000 GFA
Neighborhood Retail	0
Health/ Sport Club	10 per 1,000 GFA
Indoor Recreation or Entertainment	1.5 per 1,000 GFA
Outdoor Recreation or Entertainment	1 sf parking per 1 sf amusement space
Marina	.5 per 1,000 GFA
Nightclub/Cabaret	1 per 1,000 GFA
Office	2 per 1,000 GFA
Outdoor Café, Accessory	N/A
Repair Shop	1 per 1,000 GFA
Private Clubs	1.5 per 1,000 GFA
Shopping Center	2 per 1,000 GFA
Service Establishment	1 per 1,000 GFA
Theater	2 per 1,000 GFA
Vending Lot	2 per 1,000 GFA
Marijuana Dispensaries/Retail	1 per 1,000 GFA
Brewery	.5 per 1,000 sq ft
Micro Brewery	1 per 1,000 GFA
Industrial Brewery	.5 per 1,000 GFA

6.

e. AUTOMOTIVE	Spaces
Auto Repair	.5 per 1,000 GFA
Autobody Repair	.5 per 1,000 GFA
Car Wash	1.5 per stall
Gasoline/Convenience Station	2 per 1,000 GFA
Parking Structure	NA
Vehicle Sales/Rental/Storage	NA
Vehicle Charging Station	NA
Parking Area	NA
Parking Lot	NA
f. MUNICIPAL/CIVIC	**Spaces**
Cemetery	NA
Community Center	2 per 1,000 GFA
College, University, or Trade School	1 per 1,000 GFA
Convention Center	1 per 1,000 GFA
Medical Care Facility	1 per bed
Municipal Parks	NA
Museum	2 per 1,000 GFA
School, Pre-School/Elementary/ Middle/High	2 per 1,000 GFA
Religious Use	.5 per 1,000 GFA
Essential Services	NA
Emergency Services	1 per employee on duty
Zoo	.5 per 1,000 sq ft
g. INDUSTRIAL	**Spaces**
Composting Facility	.5 per 1000 sq ft
Dispatch Service or Freight Truck Terminal	.5 per 1000 sq ft
Industrial Facility	.5 per 1000 sq ft
Self-Storage Facility	.5 per 1000 sq ft
Technology/ Research Facility	.5 per 1000 sq ft
Warehouse/ Wholesale Distribution	.5 per 1000 sq ft
Storage Yard	NA
h. OTHER/AGRICULTURE	**Spaces**
Animal Clinic/Veterinary Hospital	2 per 1,000 GFA
Greenhouse	.5 per 1,000 GFA
Kennel, Commercial	2 per 1,000 GFA
Agriculture, Personal	NA
Agriculture, Urban	NA
Marijuana Cultivatoin/Manufacturing/Packaging	.5 per 1000 sq ft
i. ENERGY	**Spaces**
Geothermal	NA
Public Utility	NA
Solar, Accessory	NA
Solar, Large Scale	NA

Off-Street Parking Provisions

A. Front Yard Parking

1. In the R1 District parking is prohibited in all front yards except in the driveway which shall be limited to no more than two lanes with a maximum combined width of 20 feet.
2. In all other Districts parking is prohibited in the front yard.
3. Parking shall also be behind the parking setback as shown in Dimensional Tables for each district.

B. Shared Parking

1. On-Site Parking. To implement shared on-site parking, the applicant shall provide analyses as part of Site Plan Review to demonstrate that proposed uses are either competing or non-competing.
    a. Non-competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for non-competing uses. Up to 50% of the requirements for the predominant use may be waived by the Planning Board if the applicant can demonstrate that the peak demands for two uses do not overlap. An applicant may use the latest peak demand analyses published by the Institute of Traffic Engineers (ITE) or other source acceptable to the Planning Board or Commissioner of Urban and Economic Development.
    b. Competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements where peak demands do overlap. In these cases, the Planning Board may reduce the parking requirements of the predominant use by up to 30%.
2. Off-Site Parking. Separate from, or in conjunction with Shared Parking provisions, an applicant may use off-site parking to satisfy their parking requirements. As part of Site Plan Review, the applicant shall provide the necessary information to comply with the following standards:
    a. Off-site parking shall be within one thousand (1,000') feet of the property for which it is being requested.
    b. Off-site parking may only be provided if the off-site lot has an excess number of spaces or if the applicant can demonstrate that the on-site and off-site uses have non-competing peak demands.
    c. The amount of required parking spaces being reduced on-site shall be equal to the amount being provided off-site and can account for up to 100% of the minimum required on-site parking.
    d. Off-site parking spaces provided by a separate private property owner shall be subject to a legally binding agreement that will be presented to the Planning Board during the Site Plan Review process or as a condition of approval. If the conditions for shared parking become null and void and the shared parking arrangement is discontinued, this will constitute a zoning violation for any use approved expressly with shared parking. The applicant or property owner must then provide written notification of the change to the Commissioner of Urban and Economic Development and, within 60 days of that notice, provide a remedy satisfactory to the Commissioner of Urban and Economic Development to provide adequate parking.
    e. Off-site parking provided by means of a public parking facility shall be limited to 50% of the overall parking requirement for daytime peak uses.

f. On-street parking spaces that intersect or are completely contained within the frontage of the property may be counted toward the minimum parking requirements.

g. Uses sharing a parking facility shall provide for safe, convenient walking between uses and parking, including safe, well-marked pedestrian crossings, signage, and adequate lighting.

C. Fees-In-Lieu of Parking

If the City of Utica has established a Reserve Account or Revolving Fund to be used for expenses (land acquisition, design/engineering services and construction costs, and maintenance costs) related to adding parking spaces, improving the utilization of existing parking spaces, or reducing the need for new parking to serve the City of Utica, an applicant may pay a fee-in-lieu of parking space development for a portion or all off-street on-site parking. The fee to be paid per parking space shall be paid into such Fund. The fee to be paid per parking space shall be determined by the Planning Board or Common Council and published in the "Fee Schedule".

D. Bicycle Parking Design Standards

1. When a baseline parking calculation requires ten (10) or more parking spaces, one bicycle parking space is required per every ten (10) parking spaces. Reductions to the baseline number of off-street parking spaces shall not result in a reduction in the minimum number of bicycle spaces required.
2. Bicycle parking facilities should be designed according to the most recent edition of the New York State Department of Transportation's "Highway Design Manual."
3. Any bicycle parking facilities shall be located in a well-lit location that is conveniently accessible to a primary entrance(s) to the development's principal buildings, does not interfere with pedestrian traffic, and is protected from conflicts with vehicular traffic.

7. Parking Lot Dimensional Standards:

A. Compact Cars

1. Applicant may design up to 10% of their parking spaces for compact cars in accordance with the dimensions listed below.
2. Compact car spaces shall be grouped together to the greatest possible extent in areas clearly designated for compact cars. Parking lots shall have a system of that clearly indicates the location of compact car spaces.

B. Parking Space and Travel Lane Dimensions

1. For the purposes of this article, minimum parking space width shall be measured perpendicular to the center line of the parking space. For standard cars the minimum parking space width shall be nine (9) feet. For compact cars, the minimum parking space width shall be eight (8) feet.
2. Travel lanes and associated module widths shall conform to the following minimum standards;

Parking Angle	Parking Stall Width*		Travel Lane (one way)		Travel Lane (two way)	
	Standard Space	Compact Car	Standard Space	Compact Car	Standard Space	Compact Car

Parallel	9’	8’	12’	12’	24’	22’
45 degrees	18’	16’	14’	12’		
60 degrees	21’	17.5’	16’	14’		
75 degrees	22’	19’	19’	16’		
90 degrees	20’	17’	22’	19’		

*Measured from the inner most point on the parking space centerline perpendicular to the edge of the Travel Lane

8. Low Impact Development Parking Lot Design Standards:

A. Designs for all new parking lots shall follow a Low Impact Development (LID) approach with respect to stormwater management. Through the application of green infrastructure techniques, parking lot designs shall incorporate stormwater management systems that treat and reduce the Water Quality and Runoff Reduction Volumes to the maximum extent practicable. The required Water Quality and minimum Runoff Reduction Volumes shall be calculated in accordance with the methodology provided in the latest version of the New York State Department of Environmental Conservation (NYSDEC) Stormwater Management Design Manual which shall serve as the basis of design for all stormwater calculations and proposed Best Management Practices (BMP) designs.

B. Any LID technique identified in the NYSDEC Stormwater Management Design Manual may be utilized in the stormwater management designs. Acceptable LID techniques may include impervious reduction, vegetated swales, rain gardens, bioretention facilities, permeable pavers, porous pavements, infiltration facilities or dry swales. Cisterns and grey water systems that recycle and reuse stormwater runoff may also be utilized in the design. Creative solutions that provide equivalent treatment and/or runoff reduction may be utilized if acceptable to the Planning Board.

C. Stormwater management designs for redevelopment projects may be designed in accordance with Chapter 9 – Redevelopment of the NYSDEC Stormwater Management Design Manual.

9. Landscaping Standards for Parking Lot Stormwater Management

For parking areas that will contain fewer than ten (10) spaces, compliance with the design standards set forth in this article shall be determined by the Commissioner of Economic Development.

A. LID Parking Area application requirements.

The Planning Board shall require that all applicable design criteria are followed for LID Parking Area Design as defined in Section 9A of this article unless it determines, upon petition from the applicant, that the successful implementation of a LID Parking Area Design is infeasible or would impose an undue hardship on the applicant. Where the Planning Board determines that LID Parking Area Design is infeasible,

applicant shall comply with those specifications for Conventional Parking Area Design listed in Subsection 9C. Evidence that may be used by an applicant to demonstrate the infeasibility of implementing LID techniques on a site may include, without limitation:

1. The presence of subsurface geologic conditions such as ledge or large quantities of poor fill, a high-water table, or soil conditions that do not allow for the percolation of stormwater;
2. Applicant does not own existing lot to be used for off-site parking allowances;
3. The presence of soil contamination; and/or
4. Existing topography or site geometry.

B. Applicants shall provide the following information prepared by a New York State registered Professional Engineer and shall comply with the design and implementation guidelines provided in the latest version of the New York State Department of Environmental Conservation Stormwater Management Design Manual. Where portions of the parking lot are not using acceptable LID techniques, the standards for Conventional Parking Lot Design shall apply.

1. Delineation of all drainage areas inclusive of areas outside of the parking envelope that will contribute stormwater runoff to the parking area;
2. Proposed topography at two-foot contour intervals;
3. Site Plan showing drainage pathways and locations of proposed BMPs;
4. Sizing calculations for BMPs that demonstrate adequate conveyance and/or water quality treatment of water quality volume;
5. Sizing calculations for BMPs that illustrating proposed management of runoff resulting from 1-year, 10-year, and 100- year event;
6. List of plantings associated with vegetated BMPs;
7. Location of areas reserved for snow storage;
8. Location of any screening between residential and non-residential properties. Buffer zones shall be a minimum of ten (10') feet in width and shall substantively screen the site from view through the use of evergreen vegetation at least six feet in height. Fences may be used as part of screening but shall not include chain link fences. These requirements shall not apply to non-residential or mixed-use development that are designed to integrate existing or future neighboring residences into the site through the use of walkways, bicycle paths or other pedestrian amenities.
9. Location of test pits, depth to seasonal high ground water and soil infiltration rates for those areas designated for recharge;
10. Schematic diagrams of any gray water or cistern systems proposed for the parking area;
11. An Operation and Maintenance (O&M) Plan shall be submitted by the applicant to the Zoning Enforcement Officer or the Planning Board that conforms to the standards for O&M Plans detailed in the most recent version of the New York State Department of Environmental Conservation Stormwater Management Design Manual.

C. Conventional Parking Area Design Standards

The landscaping requirements in this section are intended to provide a baseline set of standards toward reducing the visual impacts of large areas of pavement, improving the overall environment or parking areas by providing areas for shade and heat reduction, and enhancing the overall aesthetic appeal of parking areas.

The following standards shall apply to all Conventional Parking Lot Design as defined in this article.

1. Amount. Developments with proposed parking areas of ten (10) spaces or more shall provide a minimum of 10% of the total parking area as landscaped open space.
2. Residential Buffers. Landscaping shall be required between non-residential uses or mixed-use developments and existing or future residential development areas. Buffer zones shall be a minimum of ten (10) feet in width and shall substantively screen the site from view through the use of evergreen vegetation at least six feet in height. Fences may be used as part of screening but shall not include chain link fences. These requirements shall not apply to non-residential or mixed-use development that are designed to integrate existing or future neighboring residences into the site through the use of walkways, bicycle paths or other pedestrian amenities.
3. Parking Aisles. The ends of parking aisles that are more than fifteen (15) spaces in length shall incorporate landscape islands at either end of the row. Where the length of parking aisles exceeds [twenty-five (25)] spaces, an intermediary landscaped island shall be installed a regular intervals. This interval shall not be more than every [thirteen (13)] spaces. Landscape islands used at the end of parking aisles shall enclose. The width of landscaped islands at their ends shall not be less than [four (4)] feet and not less than [eight (8)] feet at their midpoint.
4. Plant Selection. No tree, shrub or plant shall be proposed for use within a parking area that has been identified as an Invasive Species by the New York State Department of Environmental Conservation in the latest version of New York State List of Prohibited and Regulated Invasive Plants, or in any other reputable scientific publication that may be acceptable to the Board. All size and location design elements shall comply with the following specifications:
    a. Shade or canopy trees shall be three (3) inches Diameter at Breast Height (DBH) with a height of not less than twelve (12) feet above grade;
    b. Small or minor shade trees shall be two and one-half (2.5) inches DBH with a height of not less than nine (9) feet above grade;
    c. Ornamental or flowering fruit trees shall be two (2) inches DBH with a height of not less than seven (7) feet above grade;
    d. Evergreen trees used for screening shall be not less than six (6) feet in height above grade. Fencing may be used in conjunction with vegetated screening [but chain link fence shall not be allowed];
    e. Shrubs shall be not less than one and one-half (1.5) feet in height above grade.
    f. Turf may be used but shall not be installed in strips less than six (6) feet in width.

Off-Street Loading Requirements

A. Loading areas.

1. Off-street loading facilities shall be provided for each commercial or industrial use unless it is demonstrated that the use does not require a dedicated loading area.
2. Off-street loading facilities shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway.
3. Any required off-street loading berth shall have a clear area not less than 12 feet in width by 25 feet in length.

ARTICLE VII
General Regulations

DIVISION 1 General Regulations

Sec. 2-29-581 Lot regulations.[2]

Site Triangles. Visibility requirements for corner lots. In all zones other than the C-N and C-CBD In the RM and R1 Districts no obstruction to vision, other than an existing building, post, column or tree, exceeding 24[3] inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between the points along such street lot lines 30 feet distant from their points of intersection.

Frontage on separate streets. Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street or alley, the widest street shall be deemed the street upon which the property fronts and no principal structure and no dwelling shall be erected on the rear of such a lot except where such lot may be subdivided to create not less than two conforming lots. Where a single lot extends between two streets of equal width, either street may be deemed as that upon which the property fronts, but only one street shall be so deemed.

Sec. 2-29-582 Height regulations.

A. Generally. No building or structure shall have a greater number of stories nor have an aggregate height of a greater number of feet than is permitted in the zoning district in which such building or structure is located except as noted elsewhere in this chapter.

B. Permitted exceptions.

1. Chimneys, cooling towers, elevators, bulkheads, fire towers, gas tanks, grain elevators, solariums, steeples, penthouses, stage towers or scenery lofts, tanks, water towers, ornamental towers or spires, communications or radio or television towers or necessary mechanical appurtenances may be erected as to their height in accordance with ordinances of the City, provided no tower other than a church spire or tower of a public building shall exceed the height regulations by more than 25%. No tower shall be used as a place of habitation nor shall an advertising device of any kind whatsoever be inscribed upon or attached to any chimney, tower, tank or other structure which extends above the height limitations.

Sec. 2-29-583 Yard regulations.

A. Side yards.

1. Variance of width. Where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular, the side yard may be varied. In such case the average width of the side yard shall not be less than the otherwise required minimum width provided, however, that such side yard shall not be narrower at any one point than 1/2 the otherwise required minimum width.

[2] This section was moved to Non-Conforming section.
[3] Reduced to 24" from 30"

2. Corner lots shall meet the front yard setback requirements for each street on which the lot fronts.

B. Front yards.
   1. Average Front Yard Setback. The minimum depth of the front yard for the vacant lot situated between two improved lots, the front yard of the vacant lot shall be equal to the average of the front yards of existing buildings on either side. In no case shall it be closer than the required front yard setback of the district in which the lot is located.
   2. Front Yard Coverage. The front yard cannot be covered with impervious surfaces other than the permitted driveway which shall not exceed 20' in width.

C. Projections into required yards.
   1. Generally. Every part of a required yard in a zoning district must be open to the sky, unobstructed except for the ordinary projection of unenclosed porches, balconies, steps, sills, belt courses and cornices. Ornamental features may project up to four inches.
   2. Open or lattice fire escapes, required by law and projecting into a yard not more than five feet and the projection of chimneys and pilasters shall be permitted by the Commissioner of Code Enforcement when placed not to obstruct light and ventilation.
   3. Canopies constructed to shelter building entrances shall not be located closer to any curb line than two feet.
   4. Awnings over windows and doors shall project a maximum of three feet from the wall of the building they are erected on.
   5. Unenclosed porches and decks, whether having a roof or not, shall project not more than eight feet into any required front yard, not more than three feet into any required side yard and not more than 15 feet into any required rear yard.
      a. In the R1 District, for the front yard, in no case shall the porch or deck come closer than ten feet to the front lot line.
   6. Where a R1 or RM district abuts any other district on a street line, there shall be provided in the other district, for a distance of 50 feet from the district boundary line, a front yard at least equal in depth to that required in the residence district. Where the side or rear yard in a residence district abuts a side or rear yard in a nonresidence district, there shall be provided along such abutting line a side or rear yard at least equal in depth to that required in the residence district. In no case, however, shall the abutting side yard be less than 10 feet and the abutting rear yard be less than 20 feet.

Sec. 2-29-584 Private swimming pools.

A. Building permit. A building permit must be secured prior to construction. The application for the permit shall be accompanied by two sets of sketch plans showing the location of the pool in relation to the boundary lines of the premises and adjacent structures situated on the premises and showing all existing or proposed fences and their height. The application shall also be accompanied by two sets of plans and general specifications for the proposed private swimming pool and auxiliary structures setting forth the size and capacity of the pool. A permit fee shall be paid at the time of filing the application and the fee shall be determined from the following chart:

1. All swimming pools shall be considered structures and meet the setback requirement provisions of this chapter.
2. Private pools shall not be located within a front yard in any district.
3. All appurtenant structures, installations and equipment, such as showers, dressing rooms, equipment houses or other buildings and structures shall comply with all applicable requirements of this chapter.
4. Unless the pool is four feet or more above ground, pools shall be completely surrounded by a four fence or conformity with all New York State and local rules and regulations whichever is more restrictive.
5. Discharge of water. Pool water may not be discharged at the curb or upon the surface of any street. The discharge of water shall not cause a nuisance to the abutting property or to the public. Installation of the swimming pool shall require a dry well for the discharge of water or the water may be discharged into a storm sewer with permission of the City Engineer. A sample diagram of a small dry well may be found in Appendix A, Illustrations.
6. Electrical wiring. All electrical wiring shall be done by a local licensed electrician.

Sec. 2-29-585 Fence regulations.

A. General provisions or requirements. The following regulation shall govern the type, location and construction of all fences. No fence shall be erected without a fence permit, even when no building construction or principal use is being contemplated in conjunction with said fence construction. All fences shall be installed with the posts and rails of the structure exposed to the interior of the area being fenced.

B. There shall be a fence permit fee as established by the City of Utica and posted in the “Fee Schedule”

C. Fences may be erected in R1 and RM districts subject to the following:
   1. Fences may be erected to a height of six feet above the existing grade in any side, rear or corner side yard.
   2. All solid fences measuring more than three feet high are prohibited in the front yard of both inside and corner lots, and furthermore, all opaque fences are prohibited in the corner side yard of reversed corner lots.
   3. On residential lots which back upon a major thoroughfare, a fence may be erected to a height of six feet along the rear lot line.
   4. A fence which is constructed on that portion of property which abuts an alley shall be permitted a height of 5 1/2 feet.
   5. A fence which is constructed on that portion of property which abuts any property zoned and used for a business use or a parking lot shall be permitted a height of six feet.
   6. A fence which is constructed to screen a patio which does not exceed 25 feet in length shall be permitted a height of six feet.

D. Fences shall be created in the UMU, NMU, I, and IMU subject to the following:
   1. When a commercial use adjoins a R1 or RM district, a solid six-foot high fence, measured above the existing grade, shall be erected along any lot line that adjoins said residential district with the exception of the front lot line and corner side lot line where no fence shall be required except in

compliance with the design standards for off-street parking facilities as set forth in Article VI, off-street parking and loading requirements.

2. A solid six-foot high fence shall be erected to enclose and screen all refuse collection areas or facilities.
3. A solid fence shall be erected to screen and enclose all outdoor storage of materials, motor vehicles and other equipment, with the exception of motor vehicles in off-street parking facilities. The height of such fence shall be equal to the height of the material or equipment stored, but shall not exceed 10 feet in height. If such fence is in the front yard it shall not obstruct vehicular site lines.
4. An open fence may be erected in the interior side yard or rear yard of a lot in any commercial district to a height not to exceed six feet above the existing grade.

E. Public utility and public recreational uses.
   1. Open fences may be installed in any side or rear yard to a height not to exceed eight feet.
   2. Public utility uses such as transformer substations, or other such uses, shall be fenced. The top of such fences may include barbed wire when deemed necessary for public safety by the Commissioner of Urban and Economic Development, and approved by the Common Council.
   3. Whenever the lot line of such a utility use coincides with a lot line in a residential district, or whenever such utility use fronts on a public street, the fencing installed shall provide adequate screening. Such screening shall be accomplished by means of a solid fence approved by the Commissioner of Urban and Economic Development.
   4. In addition to the fencing, shrubbery shall be provided to a height of not less than five feet. The plan for such fence and screening shall be approved by the Commissioner of Urban and Economic Development.
   5. Public recreation areas may be enclosed along their boundaries with an open type fence to a height not to exceed eight feet. Tennis courts and other similar uses may be fenced in accordance with national standards for such uses.

F. Construction sites. All construction sites shall be properly screened and secured to protect the public health, safety and welfare. A solid six-foot high fence shall be erected to enclose all commercial construction sites within or adjoining residential districts and the Central Business District.

Sec. 2-29-586 Waste Receptacle regulations.

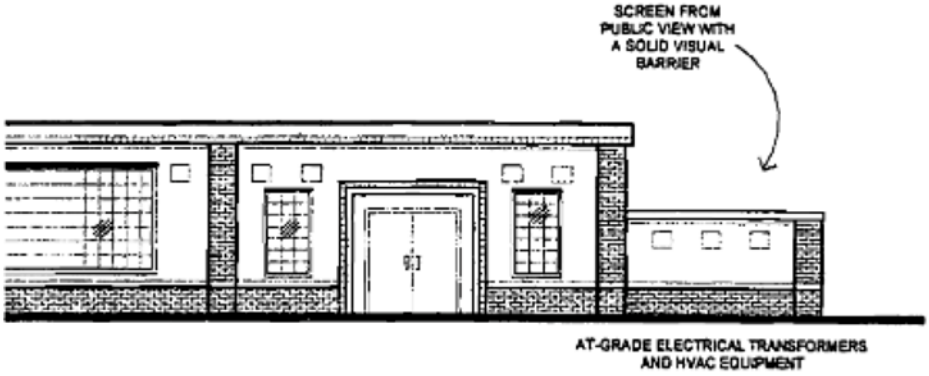
A. General provisions or requirements. The following regulation shall govern the type, location and construction of all Waste or Trash Receptacles. All waste receptacles shall be located as to have easy access for removal and not to interfere with normal traffic patterns on adjoining streets. No waste receptacles shall be located in the front yard or City right-of-way of any property without proving hardship and obtaining written permission from the Zoning Board of Appeals.
   1. All waste receptacles shall be enclosed and screened by a combination of fence wall, and/or landscape materials as approved by the Commissioner of Urban and Economic Development.
   2. A solid screen of a minimum height equal to the height of the waste receptacle shall be erected around three sides of the waste receptacle excluding the side for access.

3. Access to the waste receptacle shall be screened by a solid gate and shall remain closed and secured at all times excluding of loading and unloading of material within said waste receptacles.
4. All commercial businesses are required to locate their respective waste receptacles 100 feet from any residential property. If 100 feet is not feasible, then it is required that the waste receptacles are located at the maximum extent that is practical, away from any residential property.

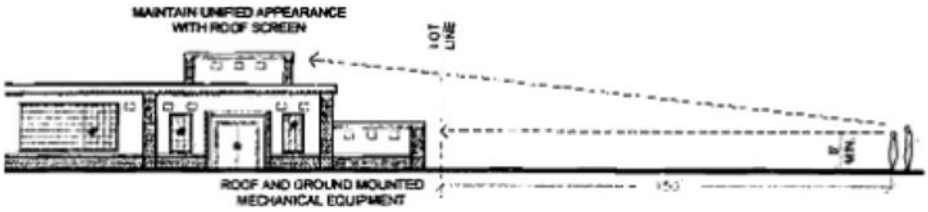
B. All existing waste receptacles in the City must comply with the aforementioned conditions within 180 days of adoption of this chapter. Failure to comply within the one-hundred-eighty-day grace period will result in a notice in order to comply and a possible fine.

Sec. 2-29-587 Mechanical equipment.

A. At-grade electrical transformers and HVAC equipment shall be screened from public view by a solid visual barrier. The materials used for and the specific design of such barriers shall be compatible with and complementary to the building itself.



B. To the maximum extent practical, all roof-mounted and ground-mounted mechanical equipment shall be screened from view or isolated so as not to be visible from any public right-of-way or residential district within 150 feet of the subject lot, measured from a point five feet above grade. Roof screens, when used, shall be coordinated with the building to maintain a unified appearance.



DIVISION 2 Landscaping and Screening Standards

Sec. 2-29-411 Purpose and intent.

A. The purpose and intent of this article is to preserve and promote the health, safety and general welfare of the public; to facilitate the creation of a convenient, attractive and harmonious community; to conserve natural resources including adequate air and water; to conserve properties and their values to preserve the character of an area by preventing the harmful effects of prejudicial uses; and

to encourage the appropriate use of the land. More specifically, this article is intended to provide guidance on landscaping requirements in order to minimize the harmful impact of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusion, and other objectionable activities or impacts conducted on or created by an adjoining or nearby use.

Sec. 2-29-412 Applicability.

The provisions of this article shall apply to all development where site plans are required.

Sec. 2-29-413 General requirements.

A. A landscaping plan shall be submitted as part of the site plan required by the provisions of this chapter.
B. Such landscaping plan shall be drawn to scale, including dimensions and distances, and clearly delineating all existing and proposed parking spaces, access aisles, driveways or other vehicle areas, and the location, size and description of all landscaping materials.
C. The landscaping measures as required by this article shall be shown on such plan, and shall be completed according to specification prior to approval of any building, occupancy or special permit.
D. All trees required by the provisions of this article shall be a minimum of six feet in overall height at the time of planting. Trees planted along pedestrian routes (i.e., sidewalks, plazas, urban parks) shall not have branches lower than six feet. (See Appendix A, Illustrations.) Trees planted within street line and sidewalk shall not have branches lower than 10 feet.
E. Existing vegetation which is suitable for use in compliance with the requirements of this article, when supplemented so as to provide planting and screening in accordance with the purpose and intent of this article, shall be retained.
F. A planting plan shall be included with all landscaping plans and shall include genus, species, size and/or caliper, symbol key, quantity, root packaging and comments (See Appendix A, Illustrations).
G. The species, size, location and spacing of plant materials shall be appropriate for the purpose intended.
H. Minimum plant size (at time of planting): Medium and large trees shall be balled and burlapped stock two-and-one-half-inch caliper;
    1. Small trees: six feet to eight feet overall height.
    2. Spreading evergreens: 24 inches to 30 inches spread.
    3. Foundation shrubs: 15 inches and 18 inches overall height.
    4. Deciduous shrubs: four feet height.
    5. Evergreen screen: four feet height.

Sec. 2-29-414 **through Sec. 2-29-420. (Reserved)**

Planting Standards

Sec. 2-29-421 Size and preparation of planting pits.

The size of pits shall be shown on plans. Pits may be dug by any method. Where pits are dug with an auger and the side of the pits become plastered or glazed, this plastered or glazed surface shall be scarified.

Sec. 2-29-422 Setting plants and backfilling.

A. Plants shall be set in the pits in a soil mix conforming to the following standards and tamped to the proper depth.
B. Soil mixture used to backfill planting pits shall consist of one part peat moss and four parts topsoil. Prior to use, the peat moss and topsoil shall be thoroughly mixed.
C. Roots of bare-root plants shall be spread out in a natural position. Broken or bruised roots shall be pruned. Soil mix shall then be filled in around the roots and tamped. Tamping shall mean firming to the extent that the soil mix is brought into close contact with the roots or root ball to eliminate air pockets and shall not be construed to mean excessive packing. Tamping around the root balls shall be performed using a mattock handle or similar round-end instrument. Root tamping is permitted in the bottom of pits before the plants are set, around root balls when there is ample room to accommodate the root without damage to the ball, and in the planting of bare-root material after the roots have been covered with the soil mix. Thorough watering shall accompany backfilling. This shall mean full saturation of all backfill in the pits.
D. When the burlap covering of balled plants extends above the surface of the ball, the portion wrapped around the stems or the trunk of the plant shall be cut away after the plant has been set. Plastic cord or twine around trunks or stems shall be removed or cut loose. Containers shall not be removed from potted plants until immediately before planting. Removal of containers shall be by approved methods which will avoid injury to the roots or loosening of the soil balls. When planted, watered and fully settled, all plants should be vertical and the stand shall be flush or slightly before the stand at which it was growing. Frozen backfill shall not be used at any time.

Sec. 2-29-423 Handling plants during planting.

During distribution to the planting pits or while awaiting planting after distribution, the roots of all bare-root plants shall be kept covered at all times with moist burlap or other approved material. During the planting of forest tree seedlings and forest tree transplants, such material shall be carried in a pail or bucket filled with sufficient mud to puddle the roots. When seedling roots have been coated with a protective material, the seedlings shall be protected in accordance with U.S. Forest Service recommendations relative to the treatment of roots while the plants are being planted.

Sec. 2-29-424 Forming water rings or saucers.

A. Immediately after installation of each plant, a saucer shall be formed about the plant pit.
B. Soil used to form the saucer shall be compacted by tamping with the back of a spade, or similar instrument to prevent the runoff of water from the pit. Saucers will not be required for plant beds, forest tree seedlings or forest tree transplants.

Sec. 2-29-425 Fertilizing.

The application of fertilizer shall be in accordance with the method shown on the plans.

Sec. 2-29-426 Mulching.

All plant material shall be mulched within 48 hours after installation. Mulch shall completely cover the entire area of the plant pit or plant bed and shall be spread uniformly. The method of application, the depth, and the material used for mulching shall be as shown on the plans.

Sec. 2-29-427 Staking and guying.

Each tree shall be staked or guyed immediately following its planting.

Sec. 2-29-428 Maintenance of landscaping.

A. All plant growth in landscaped areas shall be controlled by pruning, trimming, or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, or otherwise constitute a traffic hazard.
B. All planted areas shall be maintained in a relatively weed-free condition, clear of undergrowth and be kept free from refuse and debris.
C. All plantings shall be fertilized and irrigated at such intervals as are necessary to promote optimum growth.
D. All fences and walls installed for screening shall be repaired and maintained as necessary.
E. All trees, shrubs, ground covers, and other plant materials shall be replaced if they die or become unhealthy because of accidents, drainage problems, disease or other causes.

Sec. 2-29-429 Protection of existing vegetation.

A. When retaining existing vegetation every effort must be made by construction personnel to protect and maintain the integrity of existing plant materials.
    1. Grading shall not be permitted within the dripline of trees to be retained.
    2. The dripline of trees and perimeter of vegetation areas to be retained shall be staked out and protected (e.g. by fencing) from heavy equipment traffic or from use for the stockpiling of equipment, dirt, or construction materials.
    3. Grading must not encroach on a tree's root zone in ways that threaten the survival of the tree.
    4. Excavation for new utilities, foundations, and basements shall also be planned as not to adversely affect important vegetation.
    5. Contractor shall topsoil and seed as per City specification (See Appendix A) any areas of lawn damaged as a result of construction.
    6. Attempts to retain and preserve existing vegetation may allow a reduction of new landscaping requirements at the discretion of the Commissioner of Urban and Economic Development.

Sec. 2-29-430 through Sec. 2-29-460. (Reserved)

DIVISION 3 Land/Soil Removal

Sec. 2-29-155

A. Limitation on the removal of soil. No soil shall be removed in any zoning district except in accordance with both of the following provisions:
    1. Sod and soil may be removed on any lot in any R District to a depth of not more than six inches but only in an area not exceeding 5,000 square feet, or;
    2. Removal and excavation necessary for construction shall be permitted when such is in accordance with an approved site plan.

B. Drainage and floodplain regulations.
   1. No building shall be erected on any land and no change shall be made in the existing contours of any land, including any change in the course, width or elevation of any natural or other drainage channel, in any manner that will obstruct, interfere with or change the drainage of such land, taking into account land development that may take place in the vicinity under the provisions of this chapter, without providing adequate drainage in connection therewith and without first obtaining prior approval.
   2. There shall be no filling or change of contours in any floodplain except in accordance permitted by the provisions of this code.
   3. No building shall be erected within any floodplain, except in accordance with the provisions of this code.

DIVISION 4 Performance Standards

The following activity standards shall apply to all uses in all districts

A. Noise. No continuous hum, intermittent noise or noise with any noticeable shrillness of a volume of more than 50 decibels, measured at lot lines shall be permitted.
B. Vibration. No vibration shall be discernible at the lot lines or beyond shall be permitted.
C. Smoke. No emission of visible grey smoke of a shade equal to or darker than No. 2 on the Ringelmann Chart, measured at the point of emission shall be permitted.
D. Odors. No obnoxious odor shall be noticeable at the lot line or beyond shall be permitted.
E. Fly ash; dust. No emission which can cause any damage to human or animal health or vegetation or other forms of property or any excessive soiling shall be permitted.
F. Liquid or solid wastes. No discharge into any present or future disposal system, public or private, or streams or into the ground of any materials of such nature or temperature as to contaminate groundwater or surface water supply shall be permitted.
G. Radioactivity. No activities which emit dangerous radioactivity at any point, as covered by federal government standards shall be permitted.
H. Fire and explosion hazard. No process or storage of material in such manner as to create undue hazard by reason of fire or explosion shall be permitted.
I. Electrical emissions. Electrical operations shall not create disturbances to other types of electrical transmissions in the vicinity shall be permitted.
J. Vermin. No material stored either indoors or outdoors in a manner which attracts vermin shall be permitted.

Sec. 2-29-532 **through Sec. 2-29-540. (Reserved)**

DIVISION 5: Satellite Dish.

A. Applicability: Dish, satellite, ham radio, CB, cellular phone, shortwave or other major antenna structures shall be subject to the provisions of this section.
B. Setbacks: shall abide by the dimensional requirements for the district in which it is located.
C. Shall not be mounted on the front of any building.
D. Should not be visible from the public right-of-way.

DIVISION 6: Floodplain Regulations

Sec. 2-29-XXX Purpose and Intent

A. To minimize actual damages from flooding and erosion to the residents of the City of Utica of and that such damages including the destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life.

B. This Section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase erosion or flood damages;
5. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
6. Qualify and maintain for participation in the National Flood Insurance Program;
7. To minimize expenditure of public money for costly flood control projects;
8. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
9. To minimize prolonged business interruptions;
10. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges, located in areas of special flood hazard;
11. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
12. To provide that developers are notified that property is in an area of special flood hazard; and
13. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Sec. 2-29-XXX General Provisions

A. All applications for a floodplain development permit shall be accompanied by an application fee in accordance with 2-29-126 Fees.
B. This Section includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.

C. In their interpretation and application, the provisions of this Section shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare.

D. Whenever the requirements of this Division are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

E. The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations.

1. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made changes, natural causes, and/or higher rain intensities. This Section does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

2. This Section shall not create liability on the part of the City of Utica or any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

Sec. 2-29-XXX Established Areas of Special Flood Hazard

A. The areas of special flood hazard for the City of Utica, Community No. 360558, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

1. Flood Insurance Rate Map Panel Nos. 36065C0615F, 36065C0731F, 36065C0732F, 36065C0733F, 36065C0734F, 36065C0751F, 36065C0752F, 36065C0753F, 36065C0754F, 36065C0756F, and 36065C0758F, whose effective date is September 27, 2013, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

2. A scientific and engineering report, entitled "Flood Insurance Study, Oneida County, New York, All Jurisdictions," dated September 27, 2013.

B. The above documents are hereby adopted and declared to be a part of this Article. The Flood Insurance Study and/or maps are on file at the City of Utica Department of Engineering, 1 Kennedy Plaza, Utica, New York 13502.

Sec. 2-29-XXX Construction and Development Standards Applicable to All Structures

A. Applicability.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section XXX:

B. Anchoring.

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

C. Construction materials and methods.

New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

D. Enclosed areas.

1. For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data is available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

    a. A minimum of two openings having a total net area of not less than one-square-inch for every square foot of enclosed area subject to flooding; and

    b. The bottom of all such openings no higher than one-foot above the lowest adjacent finished grade.

    c. Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.

    d. Enclosed areas subgrade on all sides are considered basements and are not permitted.

E. Utilities.

1. New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

2. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and

4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

F. Encroachments

1. Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

   a. The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or

   b. The City of Utica agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the City of Utica for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of Utica for all costs related to the final map revision.

2. On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 2-10-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

   a. A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or

   b. The City of Utica agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the City of Utica for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of Utica for all costs related to the final map revisions.

Sec. 2-29-XXX Construction and Development Standards Applicable to Residential Structures.

A. The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in Sections XXX, Subdivision proposals; 2-10-17, Encroachments; and 2-10-18, Standards for all structures:

1. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data is available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
2. Within Zone A, when no base flood elevation data is available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
3. Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance

Rate Map enumerated in Section 2-10-6 (at least two feet if no depth number is specified).

4. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

Sec. 2-29-XXX Construction and Development Standards Applicable to Nonresidential Structures.

A. The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in Sections 2-10-16, Subdivision proposals; 2-10-17, Encroachments; and 2-10-18, Standards for all structures:

1. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data is available, new construction and substantial improvements of any nonresidential structure shall either:

   a. Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or

   b. Be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

2. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
   a. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
   b. Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Section 2-10-20(1)b.
3. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 2-10-20(1)b, including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
4. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
5. Within Zone A, when no base flood elevation data is available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

Sec. 2-29-XXX Subdivision Proposals

A. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions)

1. Proposals shall be consistent with the need to minimize flood damage;
2. Public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located

and constructed so as to minimize flood damage; and

3. Adequate drainage shall be provided to reduce exposure to flood damage.

Sec. 2-29-XXX Manufactured homes

A. The following standards, in addition to the standards in Sections XXX, Applicability of standards, and XXX, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes which are located in areas of special flood hazard:

1. A manufactured home that is placed or substantially improved in Zones A1- A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

2. Within Zone A, when no base flood elevation data is available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

3. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as two feet above the depth number specified on the Flood Insurance Rate Map enumerated in Section 2-10-6 (at least two feet if no depth number is specified).

Sec. 2-29-XXX Recreational vehicles

A. The following standards, in addition to the standards in Sections XXX, Applicability of standards, and XXX, Standards for all structures, apply, as indicated, in areas of special flood hazard to recreational vehicles which are located in areas of special flood hazard.

1. Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

   a. Be on site fewer than 180 consecutive days;

   b. Be fully licensed and ready for highway use; or

   c. Meet the requirements for manufactured homes in Section 2-10- 21(2), (3) and (4).

2. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

ARTICLE VIII
Telecommunications Facilities Regulations

DIVISION 1 Telecommunications Facilities Regulations

Sec. 2-29-469 Purpose.

The purpose of this section is to accommodate the need for Telecommunication Facilities in appropriate areas of the City of Utica, while protecting the public against any adverse impacts to aesthetic resources or the public safety and welfare.

Sec. 2-29-470 Intent.

The intent of this section is to:

A. Preserve and enhance the positive aesthetic qualities of the natural and built environment in the City of Utica;
B. Accommodate the need for Telecommunication Facilities while regulating their location and number in the community;
C. Avoid potential damage to adjacent properties and structures from tower failure or falling ice through proper engineering and site planning;
D. Minimize adverse visual impacts of these Facilities through careful design, siting and screening, and by encouraging attachment to existing tall structures and stealth design techniques; and
E. Minimize the total number of Telecommunication Facilities by strongly encouraging co-location on existing and future facilities. This section is not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall it be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

A. **Definitions**. As used in this section, the following terms shall have the meanings indicated:

ACCESSORY TELECOMMUNICATION STRUCTURES—Accessory telecommunications buildings and structures, including base stations designed and used to shelter equipment and/or to support Telecommunication Facility. The term "accessory structures" does not include offices, long-term storage of vehicles or other equipment storage or broadcast studios.

ANTENNA—A device used to transmit and/or receive radio or electromagnetic waves, including but not limited to directional antennas, such as panels and microwave dishes, and omnidirectional antennas, such as whip antennas.

TELECOMMUNICATION SERVICES —Commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services as defined by Section 704 of the Federal Telecommunications Act.

TOWER—Any ground or roof mounted pole, spire, structure or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces and masts, built for the purpose of mounting an antenna, meteorological device or similar apparatus above ground.

Sec. 2-29-472 General criteria.

A. Applicability

No Telecommunication Facility shall be erected, constructed, installed, operated or modified except as set forth below, and upon approval of a Special Permit and Site Plan by the Planning Board pursuant to this Zoning Chapter. Applicants for Approval must be Personal Wireless Service Providers licensed by the Federal Communications Board (FCC), or must provide a copy of an executed contract to provide land or Facilities to a licensed Provider at the time that an application is submitted. No approval shall be granted for a tower or Facility to be built on speculation. At the time of submission, the applicant shall pay an Application fee in accordance with the fee schedule established the City of Utica.

B. Applicants shall provide ten (10) copies of the following documents:

1. **Site Plan.** Plans, in conformance with applicable Special Permit and Site Plan provision of this chapter. The Site Plan shall show elevations, height, width, depth, type of materials, color schemes, and other relevant information for all existing and proposed structures, equipment, parking, and other improvements. The Site Plan shall also include a description of the proposed Telecommunication Facilities, and such other information that the Planning Board may require.
2. **Environmental Assessment Form.** A completed Part 1 of the Full Environmental Assessment Form (FEAF), including the Visual EAF Addendum. Particular attention shall be given to visibility from key viewpoints identified in the Visual EAF Addendum, existing tree lines and proposed elevations. The Project Description in Part 1 of the FEAF should include the anticipated five-year build-out of the provider's telecommunications network in the City, including any future planned Telecommunication Facilities.
3. **Landscape Plan.** A Landscape Plan delineating the existing trees or areas of existing trees to be preserved, the location and dimensions of proposed planting areas, including the size, type and number of trees and shrubs to be planted, curbs, fences, buffers, screening elevations of fences and materials used.
4. **Documentation of Proposed Height.** Documentation sufficient to demonstrate that the proposed height is the minimum height necessary to provide service to locations, which the applicant is not able to serve with existing Facilities within and outside the City.
5. **Statement Regarding Co-Location.** For new Telecommunication Facilities, a statement by the applicant as to whether construction of the Facility will accommodate co-location of additional Facilities for future users.
6. **Structural Engineering Report.** A report prepared by a New York State licensed professional engineer specializing in structural engineering as to the structural integrity of the Telecommunication Facility, and certifying that it is designed to meet all local, State and Federal structural requirements for load, including wind and ice loads. In the case of a tower or monopole, the Structural Engineering Report shall describe the structure's height and design including a cross section of the structure, demonstrate the structure's compliance with applicable structural standards and describe the structure's capacity, including the number of antennas it can accommodate and the precise points at which the antennas shall be mounted. In the case of an antenna mounted on an existing structure, the Structural Engineering Report shall indicate the ability of the existing structure to accept the antenna, the proposed method of affixing the antenna to the structure, and the precise point at which the antenna shall be mounted.
7. **Engineering Analysis of Radio Emissions.** An engineering analysis of the radio emissions, and a propagation map for the proposed Telecommunication Facilities. The analysis shall be prepared and signed by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio communication facilities. The results from the analysis must

clearly show that the power density levels of the electromagnetic energy generated from the proposed Facility are within the allowable limits established by the Federal Communication Board (FCC), which are in effect at the time of the application. If the proposed Telecommunication Facilities would be co-located with an existing Facility, the cumulative effects of the Facilities must also be analyzed. The power density analysis shall be based on the assumption that all antennas mounted on the proposed Facility are simultaneously transmitting radio energy at a power level equal to the maximum antenna power rating specified by the antenna manufacturer.

8. **Map of Proposed Coverage and Existing and Future Facilities.** A map showing the area of coverage of the proposed Facility and listing all existing Telecommunication Facilities in the City and bordering municipalities containing Telecommunication Facilities used by the applicant, and a detailed report indicating why the proposed Telecommunication Facilities is required to provide service to locations which the applicant is not able to serve with existing Facilities which are located within and outside the City by co- location and otherwise. This coverage map should also delineate the anticipated five-year build out of the applicant's network, including any future planned Telecommunication Facilities.
9. **Visual Impact Analysis.** The applicant shall prepare a Visual Impact Analysis which includes the following items: (This requirement may be waived by the Planning Board at the Sketch Plan Conference for applications which propose co-location on an existing Telecommunication Facility structure.)
    a. Viewshed Map based on a USGS 7.5' quadrangle map delineating potential visibility zones at foreground (0-0.5 miles), middle ground (0.5-3.5 miles) and background (3.5-5.0 miles) from the proposed facility. All public use area and visually sensitive resources should be identified. A minimum of eight (8) line of sight profile transects should be delineated at 45 degree intervals.
    b. Balloon Test. Within 30 days of submitting the application, the applicant shall fly a brightly colored weather balloon at least five feet (5') in diameter at the maximum height of the proposed Telecommunication Facility, for four (4) consecutive daylight hours. At least two (2) weeks prior to the balloon test, the applicant shall mail notification of the date and time of the test to the Planning Board and to all landowners whose property is located within one thousand (1,000) feet of any property line of the parcel on which the Facility is proposed. The Applicant shall also advertise the date, time, and location of the balloon test in the City's official newspaper 7-14 days in advance of the test.
    c. Photo simulation of "before and after" views of the proposed Facility from key viewpoints both within and outside the City, including, but not limited to major roads, public land, historic sites, or other locations where the site is visible to a large number of residents, visitors, or travelers.
10. **Escrow Account.** An applicant shall deposit with the City funds sufficient to cover the reasonable costs of expert engineering evaluations and consultation in connection with the application review. These independent engineering evaluations may include site plan, structural, radio frequency, and other reviews as necessary. The City will maintain a separate escrow account for these funds. An initial deposit of $7,500 shall accompany the filing of the application, and subsequent deposits may be required to maintain a balance of no less than $2,500. At the conclusion of the review, any excess funds in the escrow account will be promptly refunded to the applicant.
11. **Inter-municipal Notification for New Telecommunication Facilities.** In order to facilitate inter-municipal cooperation, and the possible shared use of Telecommunication facilities, an applicant

for a new Telecommunication Facility must notify in writing the legislative body of each municipality that borders the City of Utica of their intended application. Notification must include a map showing the exact location of the proposed Facility and a general description of the project including, but not limited to, the height of the Facility and its capacity for future shared use. Documentation of this notification must be submitted to the City with the initial application.

12. **Performance Bond or Other Security.** Prior to Site Plan Approval, a performance bond or other security sufficient to cover the full cost of the removal and disposal of the Telecommunication Facility upon abandonment of said Facility shall be provided by the owner/operator. This cost shall be determined by an estimate of the City designated engineer. Any such security must be provided pursuant to a written security agreement with the City, approved by the Common Council and also approved by the City attorney as to form, sufficiency and manner of execution. The form of security shall be limited to those permissible under NYS General City Law section 33 subsection 8 (c) IV.

C. Tower Building Requirements

1. The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams or other means. The design should utilize an open framework or monopole configuration. Permanent platforms or structures exclusive of antennas that would serve to increase off-site visibility are prohibited, without a separate variance.
2. The base of the tower shall occupy no more than 500 square feet and the top of the tower shall be no larger than the base.
3. Minimum spacing between tower locations is 1/4 mile.

D. Setbacks for Towers and Telecommunication Accessory Structures

Towers and all accessory telecommunication accessory structures shall conform with each of the following minimum setback requirements:

1. The minimum setbacks of the underlying zoning district shall be met with the exception of industrial zoning districts, where towers and accessory structures may encroach into the rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.
2. Towers and accessory structures shall be set back from the planning public rights-of-way as shown on the most recently adopted plan or map of the city showing such rights-of-way, by a minimum distance equal to 1/2 of the height of the tower, including all antennas and attachments.
3. A tower's setback may be reduced in the sole discretion of the ZBA to allow the integration of a tower into an existing or proposed structure, such as a church steeple, light pole, power line or similar structure.

E. Criteria

Applicants shall meet all of the following criteria:

1. **Necessity.** The applicant must prove that the proposed Telecommunication Facility is necessary in order to provide service to locations which the applicant is not able to serve with existing Facilities which are located within and outside the City by co-location and otherwise. Furthermore, the applicant must demonstrate that the proposed Facility is the least intrusive means available to fill a significant gap in coverage. The application must document good faith efforts to secure co-location on existing Telecommunication Facilities, and to secure shared use

from owners of all existing tall structures in the coverage area. Any physical, technical and/or financial reasons, which make co-location or shared use unfeasible, must be documented.

2. **Co-location.** The co-location on existing Telecommunication Facilities shall be strongly preferred to the construction of new Telecommunication Facilities. If a new site for a Telecommunication Facilities is proposed, the applicant shall submit a report setting forth in detail:
   a. An inventory of existing Telecommunication Facilities which are within a reasonable distance from the proposed Facility with respect to coverage,
   b. An inventory of existing Telecommunication Facilities in other municipalities which can be utilized or modified in order to provide coverage to the locations the applicant is seeking to serve, and
   c. A report on the possibilities and opportunities for co-location as an alternative to a new site.
   d. The applicant must demonstrate that the proposed Telecommunication Facilities cannot be accommodated on an existing Facility or on an existing Facility in another municipality due to one or more of the following reasons:
      (1) The proposed equipment would exceed the existing and reasonably potential structural capacity of existing and approved Telecommunication Facilities, considering existing and planned use for those Facilities.
      (2) The existing or proposed equipment would cause interference with other existing or proposed equipment which could not reasonably be prevented or mitigated.
      (3) Existing or approved Telecommunication Facilities in neighboring municipalities do not have space on which the proposed equipment can be placed so it can function effectively and reasonably, and the applicant has not been able, following a good faith effort, to reach an agreement with the owners of such Facilities.
      (4) Other reasons make it impractical to place the proposed equipment on existing and approved Telecommunication Facilities in other municipalities.
      (5) Service to the locations to which the applicant seeks to provide service cannot be provided by existing Facilities within or outside the City.

3. **Minimum Lot Size.** The minimum lot size for a tower or monopole shall be equal to 1.5 the tower's or monopole's height, or the minimum lot size required by the underlying zoning district, whichever is greater.
4. **Setbacks.**
   a. Unless the FCC promulgates rules to the contrary, all Personal Wireless Service Facilities shall be separated from all existing residential dwellings by a distance of no less than five hundred (500) feet. Telecommunication Facilities must comply with all setback requirements of the underlying zoning district, or must be located with a minimum setback from any property line equal to two (2) times the height of the tower, whichever is greater. Setbacks from towers or monopoles shall be measured from the base of the structure.
   b. The Planning Board may grant a waiver from the property line setback if such waiver would allow the new Facility to be located on an existing tall structure or tower.
5. **Security Fencing.** Security fencing shall be provided, around each tower or monopole to secure and visually screen the site. Access to the structure shall be through a locked gate.
6. **Architectural Compatibility.** Whenever feasible, Telecommunication Facilities shall locate on existing structures, including, but not limited to buildings, silos, water towers, utility structures, and existing communication facilities, provided that such installation preserves the character and integrity of these structures. Where a Telecommunication Facility is to be attached to an existing

building or structure, such Facility shall be integrated into such existing building or structure in such a manner, which blends with the architectural characteristics of the building or structure to the maximum extent practicable.

7. **Placement.** Unless wall-mounted on an existing roof-mounted mechanical enclosure or similar appurtenance, all antennas mounted on a roof shall be located so that visibility of the antenna is limited to the greatest extent practicable. Antennas wall-mounted on a roof mounted mechanical enclosure or similar appurtenance shall not extend above the height of the appurtenance at the attachment location.

F. Design Guidelines

The proposed Telecommunication Facility shall meet the following applicable design guidelines:

1. **Finish/Colors.** Towers or monopoles not requiring Federal Aviation Administration (FAA) painting or marking shall either have a galvanized finish or be painted to blend with their surroundings. Accessory telecommunication structures shall maximize the use of building materials, colors and textures designed to harmonize with the natural or manmade surroundings.
2. **Illumination.** No signals, lights or illumination shall be permitted on Telecommunication Facilities unless required by the FAA or other federal, state or local authority.
3. **Landscaping for Towers or Monopoles.** For towers or monopoles, vegetative screening shall be provided to effectively screen the tower base and accessory facilities. At a minimum, screening shall consist of one row of native evergreen shrubs or evergreen trees capable of forming a continuous hedge at least ten (10) feet in height within two (2) years of planting. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute of or in supplement toward meeting landscaping requirements. Additional screening may be required to screen portions of the structure from nearby residential property or important views. All landscaping shall be properly maintained to ensure good health and viability, for the life of the facility.
4. **Visibility.** All Telecommunication Facilities shall be designed and sited to have minimum adverse visual effect on residential areas, parks or major roadways. Attachment to existing structures and stealth design techniques, which mimic or integrate antenna into manmade structures such as steeples, cupolas, farm structures, flagpoles, etc. are highly encouraged. When this is not feasible, tower structures offering slender silhouettes (i.e. monopoles) are preferable to freestanding lattice style structures.
5. **Signage.** Signage shall be prohibited on Telecommunication Facilities except for signage to identify the Facility, which is located along the right-of-way frontage. Except as specifically required by a federal, state or local authority, no signage shall be permitted on equipment mounting structures or antennas.

G. Construction and Maintenance

1. **Time Limit for Completion.** A building permit must be obtained within six (6) months after approval of a Site Plan for a Telecommunication Facility and construction of such Facility must be completed within twelve (12) months of such approval. The Site Plan Approval shall automatically expire in the event that the Building Code Enforcement Officer has not granted such permit and construction of the Facility is not completed with the periods set forth above.
2. **Annual Inspections**
   a. Unless otherwise preempted by Federal or State Law, Telecommunication Facilities, including towers, monopoles and antennas, shall be inspected annually at the applicant's

expense for structural integrity, and a copy of the inspection report shall be promptly transmitted to the Building Code Enforcement Officer. A New York State licensed professional engineer specializing in structural engineering shall perform the structural inspection. The structural inspection report shall describe the structural integrity of the Telecommunication Facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspection indicates structural deficiencies, then the applicant must remedy the deficiencies at the applicant's expense within the time reasonably set by the Building Code Enforcement Officer.

b. Unless otherwise preempted by Federal or State law, Telecommunication Facilities, including towers, monopoles and antennas, shall be inspected annually at the applicant's expense for radio emissions, and a copy of the inspection report shall be promptly transmitted to the Building Code Enforcement Officer. A New York State licensed professional engineer specializing in electrical engineering with expertise in radio communication Facilities shall perform radio emission inspection. The radio emission inspection shall describe the power density levels of the electromagnetic energy generated from the Facility, including the cumulative effects of co- located antennas. In the event that the radio emission inspection indicates that the electromagnetic energy generated from the Facility are above the allowable limits stated within applicable FCC or ANSI standards or other applicable state or federal guidelines in effect at the time of the inspection, the applicant shall cease all use of the Facility until such time as it proves to the satisfaction of the Building Code Enforcement Officer that the power density levels of the electromagnetic energy to be generated at the Facility are below the applicable standards.

3. **Abandonment.** In the event that the use of any Telecommunication Facility has been discontinued by all operators on such Facility for a period of one hundred eighty (180) consecutive days or more, the Facility shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Building Code Enforcement Officer, who shall have the right to request documentation from the owner/operator of the Facility regarding usage. Upon such abandonment, the owner/operator shall remove the Facility at its own expense, and failing prompt removal; the City may remove the Facility at the owner/operator's expense. At the applicant's expense, the site shall be returned to the maximum extent practicable, to its original condition. All Site Plan Approvals, variances and approvals of any nature granted by the City shall automatically expire as of the date of abandonment of the facility.

H. Alteration of an Existing Antenna

Alteration of an existing antenna, which results in an increase in the size or height of the equipment mounting structure, may be permitted only after application to the Planning Board which shall review the matter as if the alteration were an entirely new application for a Site Plan Approval. Site Plan Review is not required in the case of minor modifications to antennas, which do not result in an increase to the overall height of the structure. However, the following documents must be submitted to the City Clerk for review and approval by the City's expert engineering consultant(s) at the applicant's expense:

1. Plans, elevations and details of the proposed alterations. Certification by a New

York State Licensed Engineer specializing in structural engineering that the structure is capable of carrying the design load of the proposed alterations, and that the modifications will not result in an increase in the overall height of the structure.

2. Certification by a New York State Licensed Engineer with expertise in radio communication Facilities that the total radio frequency emissions generated after modification are within the allowable limits established by current FCC regulations.

I. Effect of law on existing towers and antennas

Antennas and towers in existence, which do not conform to or comply with this section, are subject to the following provisions:

1. Antennas and towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this law.
2. If such antennas or towers are hereafter damaged or destroyed due to any natural reason or cause whatsoever, the antenna or tower may be repaired and restored to its former use, location and physical dimensions without complying with this law; provided, however, that, if the cost of repairing the tower to the former use, physical dimensions and location would be 10% or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this law. Proof of such cost shall be submitted to the City of Utica Building Inspector prior to commencement of any construction.

J. Exemption from this Section

The following are exempted from the provisions of this Section:

1. Machines and equipment designed and marketed as consumer products, such as walkie-talkies, ham radios not used commercial purposes, remote control toys, and cellular phones;
2. Hand-held, mobile, marine, and portable radio communication transmitters and/or receivers;
3. Two-way radios utilized for temporary or emergency service communications;
4. Two-way radios utilized for government service communications;
5. Back-up wireless transmitters connected to an alarm monitoring service that transmits to a remote monitoring center in the event of an emergency when the telephone lines are inoperable, and
6. Over-the-air receive only devices in compliance with FCC rules and standards.

ARTICLE IX
Hydraulic Fracturing Brine Prohibition

Sec. 2-29-481 Definitions.

As used in this article, the following terms shall have the following meanings:

APPLICATION
The physical act of placing brine on one or more City streets and roads or one or more pieces of City property. Each physical act shall be deemed separate when the person committing the act stops for any reason the placement of the brine for any purpose, including but not limited to stopping a vehicle used in the placement of the brine, stopping work for any reason, or reloading or replacing any material or equipment necessary to apply the brine.

BRINE
Production brine; or produced waters; or flowback; or flowback fluids; or hydraulic fracturing fluid, any or all of which are generated as a result of drilling for, or seeking gas in wells, including but not limited to high-volume hydraulic fracturing, as defined herein.

COMMISSIONER
The Commissioner of the Department of Public Works except for the use of the word "commissioner" in Section 2-29-5 may mean any other commissioner designated by the Mayor or may mean the Commissioner of Public Works as determined by the Mayor.

FLOWBACK
Liquids and solids produced during initial completion and clean-up of the well or clean-up of a well following a re-fracture or workover.

FLOWBACK FLUIDS
Liquids produced following drilling and initial completion and clean-up of the well or clean-up of a well following a re-fracture or workover.

HIGH-VOLUME HYDRAULIC FRACTURING
A natural gas well stimulation technique consisting of the injection into the earth of a water and chemical mix with the intent of increasing the ability to extract natural gas from very tight rock.

HYDRAULIC FRACTURING FLUID
Fluid used to perform hydraulic fracturing and includes the primary carrier fluid and all applicable additives.

MUNICIPALITY
The City of Utica, County of Oneida, New York

PRODUCTION BRINE OR PRODUCED WATERS
Liquids co-produced during oil and gas production.

PROPERTY
Real property, improved or otherwise, which the City of Utica, County of Oneida, New York owns or controls.

ROADS
Public roads, streets, or bridges owned or controlled by the municipality.

Sec. 2-29-482 Use of brine prohibited.

No brine shall be applied to or placed upon property or roads of the municipality. In any bid for materials, services, or equipment which relate to property maintenance or road improvements or road construction, the municipality, in a bid specification or bid document describing the nature of the services or equipment sought, and any agency or division of the municipality, shall expressly state in capitalized, bold font, "The placement of brine on any road or property of the City of Utica is unlawful. Any bidder shall file a sworn statement with their bid that no brine as defined by ordinance of the municipality will be sold to the municipality as part of the bid, or utilized on or placed on any property or road of the City of Utica, County of Oneida, New York. Bidders are directed to City of Utica, County of Oneida Ordinance No. 11 of 2013 for the definition of brine."

Sec. 2-29-483 Statement to be included in bid.

A. The statement provided for in Section 2-29-483, which shall be a sworn statement under penalty of perjury, shall read substantially as follows:
   1. "We, _____ hereby submit a bid for materials, equipment, or labor for the _____ of _____. The bid is for bid documents titled _____. We hereby certify under penalty of perjury that no brine will be used by the undersigned bidder or any contractor, subcontractor, agent, or vendor thereof in connection with the bid; nor will the undersigned bidder or any subcontractor, agent, or vendor thereof and/or therefor apply or supply any brine to any property or road(s) of the City of Utica, County of Oneida, New York as a result of the submittal of this bid if selected.
   2. The statement shall otherwise be sworn to under penalty of perjury in a form satisfactory to the City Attorney.

Sec. 2-29-484 Duty of employees to be familiar with provisions.

The Mayor or, at the Mayor's option, a department head or a commissioner of any department appointed by the Mayor is authorized to develop policies to ensure City employees are familiar with this article and take such steps as are directed by the Mayor or such department head or commissioner to ensure a diligent effort by the City that materials supplied to the City of Utica or used on City streets and roads or property comply with this article. This shall not excuse noncompliance by a contractor or vendor of the City.

Sec. 2-29-485 Penalties for offenses.

A. Breach of contract. A violation of the provisions of this article shall be deemed a breach of contract and shall authorize the Director of Purchasing, in cooperation with the City Attorney and any other officer or employee of the City of Utica deemed necessary by the City Attorney, to commence a civil breach of contract action against the violator of the provisions of this article. Damages sought shall be determined by the City Attorney but may include, but shall not be limited to the cost of any consequential damages of the breach of contract. In addition, the Director of Purchasing may make a finding that the contractor is not a responsible bidder. The City Attorney is further authorized to commence any necessary action to enjoin any violation of this article he or she believes to be occurring.

B. Criminal penalties. In addition to prosecution for perjury as determined by the District Attorney, any person who violates this article shall be guilty of an unclassified misdemeanor and subject to a fine not to exceed $25,000 per violation and/or up to 15 days' imprisonment. Each application of brine shall constitute a separate and distinct violation.

Sec. 2-29-486 **through Sec. 2-29-490. (Reserved)**

ARTICLE X
Site Plan Review and Special Use Permits Submission Requirements

DIVISION 1 Site Plan Review General Requirements

Sec. 2-29-541 Applicability.

A. Site plans, prepared and approved in accordance with the provisions of this article, shall be required to assist the Planning Board in the review of certain applications for building permits, special use permits and occupancy permits, and to assure compliance with all applicable requirements of this chapter.
B. This Article applies to all uses as indicated with an S or SP in the Use Table unless exempt pursuant to this Division.
C. In existing Planned Development Districts site plans may be referred to the Planning Board for review at the discretion of the Department of Urban and Economic Development.

Sec. 2-29-543 Exceptions and waivers.

A. Additions to existing buildings when such addition does not exceed 1,000 square feet of the gross floor area of the existing building.
B. Any permitted use on a temporary basis for a period not to exceed one year.
C. For uses indicated with a D in the Use Table the Department of Urban and Economic Development may waive the need for Site Plan Review.

Sec. 2-29-544 **through Sec. 2-29-550. (Reserved)**

DIVISION 2 Site Plan Preparation

Sec. 2-29-551 General.

A. Site plans involving engineering, architecture, landscape architecture or land surveying shall be certified by such professional as licensed by the State of New York.
B. Site plans shall be prepared to an architectural or engineering scale. The sheet(s) shall be 24 inches by 36 inches or larger.
C. A site plan may be prepared on one or more sheets to show clearly the information required by this article and to facilitate the review and approval of the plan. If prepared on more than one sheet, match lines shall clearly indicate where the several sheets join.
D. All lettering on a site plan shall be legible.

Sec. 2-29-552 Required information.

A. All site plans shall be submitted to the Commissioner of Urban and Economic Development in four clearly legible blue or black line folded copies, and such site plan shall be accompanied by a receipt from the treasurer's office evidencing the payment of all required site plan fees for processing and approval.

1. Location of the tract by an insert map at a scale of not less than one inch equals 2,000 feet indicating scaled coordinates referred to by the U.S.G.S. quadrangles or state grid north and such information as the names and numbers of adjoining roads, streams and bodies of water, railroad subdivisions, or other landmarks sufficient to clearly identify the location of the property.
2. Every site plan shall show the name and address of the owner of developer, the district, county, state, north point, date and scale of drawing, and number of sheets. In addition, it shall reserve a blank space, three inches wide and five inches high, for the use of the reviewing authority.
3. A boundary survey of the tract with an error of closure within the limit of one in 10,000 related to the true meridian and showing the location and type of boundary evidence.
4. All horizontal dimensions shown on the site plan shall be in feet and decimal fractions of a foot to the closest one hundredth of a foot, and all bearings in degrees, minutes and seconds to the nearest 10 seconds.
5. Certificate signed by a licensed surveyor and a licensed engineer or architect setting forth the source of title of the owner of the tract and the place of record of the last instrument in the chair of title.
6. All existing and proposed streets and easements, their names, numbers and widths; existing and proposed utilities; watercourses and their names; owners, zoning and present use of all adjoining properties.
7. A landscape plan, drawn to scale, including dimensions, distances and the location, size and description of all proposed landscape materials.
8. Existing vegetation, proposed removal of vegetation, and proposed replacement of vegetation.
9. Location, type, size and height of fencing, retaining walls and screen planting as may be required by Article VII of this chapter.
10. All off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width aisles and a specific schedule showing the number of parking spaces provided and the number required by this chapter.
11. The location, size and height of all existing and proposed signs on the site. A detailed drawing of each sign shall also be submitted, showing the colors of the sign, content of the sign and the exact size and style of the lettering.
12. The proposed location, general use, number of floors, height and the net and gross floor area for each building, to include outside display areas, and where applicable the number, size and type of dwelling units.
13. Sufficient information to show how the physical improvements associated with the proposed development interrelates with existing or proposed development of record on adjacent properties.

14. All existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types, and grades and where connection is to be made in the City or other utility system.
15. Provisions for the adequate disposition of natural and storm water, indicating the location, size, type, and grade of ditches, catch basins and pipes and connections to existing drainage system, and on-site stormwater retention where deemed appropriate and necessary by the Commissioner of Urban and Economic Development and the City Engineer.
16. Provisions for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.
17. Existing topography with a maximum contour interval of two feet, except where existing ground is on a slope of less than 2%, then either one-foot contours or spot elevations shall be provided where necessary, but not more than 50 feet apart in both directions.
18. Proposed finished grading by contours, supplemented where necessary by spot elevations.
19. Location of fire and other emergency zones, including the location of fire hydrants.
20. Location and design of existing and proposed outdoor lighting facilities, furniture, and similar facilities.
21. The completed Environmental Assessment Form (EAF) in compliance with the State Environmental Quality Review Act (SEQRA)

DIVISION 3 Plan Review

Sec 2-29-561 General Plan Review.

Prior to the issuance of a building permit, special use permit or an occupancy permit for any use requiring site plan review, the Commissioner of Urban and Economic Development shall refer the application and all application materials as specified herein to the Planning Board.

Sec. 2-29-562 Sketch plan review.

A. A meeting shall be held between the Commissioner of Urban and Economic Development, the City Engineer, and the applicant to review the basic site design concept. The staff may recommend revisions or modifications as appropriate to ensure that the proposed development will be in harmony with the rest of the community and environment. The applicant shall provide the following in addition to a sketch plan describing what is proposed:
    1. An area map at the scale of one inch equals 2,000 feet showing the parcel under consideration for site plan review, and all properties, water bodies, streets, and easements within 200 feet of the property boundaries.
    2. A map of site topography at no more than five-foot contour intervals. If general site grades exceed 5% or portions of the site have susceptibility to erosion, flooding, or ponding, a soil overlay and a topographic map showing contour intervals of not more than two feet of elevation should be provided.
    3. After staff review, upon referral to the Planning Board, the Board may determine that the information provided is sufficient to grant approval and may waive preliminary and final

requirements and approve the sketch plan as agreed to by the applicant and the Board if it determines that such approval is in the interest of the public health, safety, and welfare.

Sec. 2-29-563 Application for preliminary site plan approval.

A. An application for preliminary site plan review and approval shall be accompanied by a fee in the amount specified in the fee schedule.
B. For all Preliminary Site Plan applications, a public hearing shall be required.
C. Anticipated costs which the Planning Board expects to incur due to consulting services or other review costs shall be paid by the applicant and placed in an escrow account. Any unspent funds shall be returned to the applicant within five days of the Planning Board action on the final site plan.

Sec. 2-29-564 Preliminary site plan review criteria.

A. An application for preliminary site plan review shall include but not be limited to the following:
    1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic control.
    2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
    3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
    4. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
    5. Adequacy of stormwater and drainage facilities.
    6. Adequacy of water and sewage disposal facilities.
    7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
    8. In the case of multifamily dwellings, the adequacy of usable open space for play areas and informal recreation.
    9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
    10. Adequacy of fire lanes and other emergency zones and the provisions of fire hydrants.
    11. Special attention to the adequacy of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
    12. Overall sensitivity to the environment.

Sec. 2-29-565 Consultant review.

The Planning Board shall consult with its professional planning staff with regard to each site plan presented to it. In addition, the Board may consult with the Department of Public Works, the City Engineer, representatives of federal, state and county agencies as well as its designated private consultants.

Sec. 2-29-566 Public hearing.

The Planning Board may conduct a public hearing. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within 62 days of the receipt

of a complete application for site plan approval and public notice shall be given in accordance with the provisions of Article II.

Sec. 2-29-567 Planning Board action.

A. The proposed development is subject to the provisions of the State Environmental Quality Review Act (SEQRA). As early as possible, the Planning Board should identify the type of action the proposed development is according to the SEQR. To make this decision the Planning Board should consult "Planning Board Technical Memo"(s) or if necessary, Part 617 of Article 8 of the State of New York Environmental Conservation Law. The Planning Board should also review the Environmental Assessment Form (EAF) submitted as part of the application. The type of action and related procedure will dictate the next steps, if any, to be taken to comply with the SEQR regulations.

B. The Planning Board may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modification shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board shall state the reasons for such findings.

C. In such case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

D. Projects located within the Scenic and Historic Overlay District shall be referred to the Scenic and Historic Preservation Commission for a Certificate of Appropriateness.
   1. Site Plan Review applications referred to the Commission by the Planning Board shall be referred back to the Planning Board within the 45-day review period for the Certificate of Appropriateness, unless the applicant and the Commission mutually agree upon an extension. The application shall be referred back even if the Certificate of Appropriateness is denied.
   2. Upon receipt of a decision from the Commission, the Planning Board can accept the approval, overrule a denial or modify the decision. Overruling a denial or modifying a decision requires a majority vote of all of the members currently serving on the Planning Board.

E. If the Planning Board is conducting a special permit review in conjunction with site plan review, the Planning Board shall refer to the additional criteria in the special permit Division below.

Sec. 2-29-569 Final plan review.

A. After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final, detailed site plan to the Planning Board for approval. If more than six months has elapsed since the time of the Planning Board's action on the preliminary site plan or if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

B. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any and all modifications that may have been recommended by the Planning Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the final site plan.

C. The following additional information shall accompany an application for final site plan approval:
   1. Record of application for and status of all necessary permits.

2. Detailed sizing and final material specification of all proposed construction.
3. An estimated project construction schedule.
4. If applicable, a Certificate of Appropriateness.

Sec. 2-29-570 Required referral.

Prior to taking action on the final site development plan, the Planning Board shall refer the plan to the County Planning Department for advisory review and a report in accordance with Section 239 of the General Municipal Law, where the proposed action is within a distance of 500 feet from the boundary of any other jurisdiction; from the boundary of any existing or proposed county or state park or other recreation area; from the right-of-way of any stream or drainage channel owned by the county for which the county has established channel lines; from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated.

Sec. 2-29-571 Final action.

A. Within 62 days of receipt of the application for final site plan approval, the Planning Board shall render a decision to the Commissioner of Code Enforcement unless the period is extended by mutual agreement between the applicant and the Planning Board.
   1. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act (SEQRA.)
   2. If the Planning Board chooses to modify any of the conditions within a Certificate of Appropriateness provided by the Scenic and Historic Preservation Commission, such modification requires a unanimous vote of all of the current members of the Planning Board.
   3. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due to the City, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward such copy to the Commissioner of Code Enforcement.
   4. Upon disapproval of a final site plan, the Planning Board shall so inform the Commissioner of Urban and Economic Development who shall deny the requested permit to the applicant. The Planning Board shall also notify the applicant of its decision and its reasons for disapproval by certified mail, return receipt requested.

DIVISION 4 Special Use Permit

Purpose

A. The purpose of this Division is to set forth additional requirements which shall apply to certain land uses and activities which due to their characteristics, or the special characteristics of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this code and their effect on the surrounding properties and community character.
B. The primary purpose of Special Use Permit review is to ensure compatibility with the surrounding neighborhood and to ensure the long-term benefit of the use to the City.
C. All uses designated a special use permit are permitted uses in their respective districts subject to the satisfaction of the requirements and standards set forth in this Article and such conditions as the Planning Board may determine.

Application Content

All special use permit review and approval shall occur as a part of Site Plan review. Applicants shall refer to the Site Plan Review for application content.

Criteria

A. The Planning Board shall consider the following general criteria, in addition to criteria set forth in the Site Plan Review, when making a determination for a special use permit:
   1. Compatibility of the proposed use with the principles of the district, the purposes set forth in this ordinance, and the goals of the Master Plan.
   2. Compatibility of the proposed use with adjoining properties and with the natural and man-made environment.
   3. Compatibility of the height of buildings, walls, fences and the nature and extent of landscaping on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
   4. Adequacy of parking, vehicular circulation, and infrastructure for the proposed use, including accessibility to fire, police, and emergency vehicles and sufficient water supply and appurtenances for fire-fighting purposes.
   5. The overall impact on the site and its surroundings considering environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances.
   6. Restrictions and/or conditions on design of structures or operation of the use (including hours of operation) necessary either to ensure compatibility with the surrounding uses and neighborhood or to protect the natural or scenic resources of the City.
   7. Consistency of the location of the proposed use with the goal of creating a healthy mix of uses that enhances the viability of the City.
   8. Compatibility with the historic character and use of the structure or structures and the historic character of the site and in the surrounding area, if applicable.

Special Use Permit Review

A. If a use is designated as needing a special permit in the Use Table, such use shall be granted approval, approval with conditions, or denied in conjunction with site plan approval process.
B. As part of approval process the Planning Board shall consider the criteria listed herein.
C. A public hearing is required for all special permit uses.
D. The Planning Board shall schedule and notice a public hearing in accordance with the timeframes and process Article II.
E. The special use permit process shall be concluded in conjunction with Site Plan Review.

Planning Board Action

The Planning Board shall not issue a special use permit unless it makes a recorded finding that the proposed use will satisfy the standards set forth herein. In order to reach positive findings in support of the special use permit, the Planning Board may require conditions of, and/or modifications to, the project. Such conditions must relate to the impact of the project. If the Planning Board does not make a positive finding in support of the special use permit, it shall deny the special use permit. In issuance of such a denial, the record of the Planning Board must address the criteria outlined above and include the facts and reasons upon which such denial was based.

Special Use Permit expiration, revocation and enforcement

A. Any violation of the conditions of a special use permit or a violation of any applicable performance criteria of this ordinance shall be deemed a violation of this ordinance and shall be subject to enforcement action as provided herein.
B. All special use permits shall run with the land and will be transferred to successive property owners provided the permit has not expired and it is not revoked for failure to meet the permit conditions.
C. Expiration of special permits. A special permit shall be deemed to authorize only the particular use or uses specified in the permit and shall expire if said use or uses shall cease for any reason for a six-month period. Unless the project is complete to the point of vesting, a special use permit shall expire after 12 months. A one (1) year extension may be granted upon application to the Planning Board.

ARTICLE XI
Supplemental Regulations

Adult Uses:

Adult bookstores, adult cabarets, adult mini theaters and video theaters, and other similar adult uses may not be located within a five-hundred-foot radius of any place of worship, school, playground or R1 or RM District.

Agriculture, Urban

A. In General:

1. Animals shall be kept only in conditions that limit odors and noise and the attraction of insects and rodents so as not to cause a nuisance to occupants of nearby buildings or lots and not to cause health hazards. Furthermore, animals shall not be kept in a manner that is injurious or unhealthful to the animals being kept on the property.
2. It shall be unlawful for any person or other party operating or occupying any building or premises to keep or allow to be kept any animal or bird that makes noise that unreasonably disturbs the peace and quiet of the neighborhood.
3. Chickens, ducks, rabbits and similar small animals may only be slaughtered inside a garage or other building and only for use by the owner of the lot and not for sale. No other animals may be slaughtered on site.
4. Animal or animal products may not be sold without an approved use which includes such sales.
5. Plants shall not be grown or animals raised directly in the soils in Industrial Zone without prior testing that proves suitability for the proposed use.

B. Rabbits, Ducks and Hens

In the R1 and RM districts the following regulations shall apply.

A. No more than one such animal shall be kept on a parcel of land for each 1,000 square feet of lot area.

B. The coops or cages housing such animals may not be located

1. In any of the required setbacks or within 20 feet of any neighboring residential dwelling unit

2. Within 5 feet of any principle structure on the lot housing the animals.

3. Within 5 feet of any abutting residential property line, unless the abutting owner agrees in writing to a lesser setback.

C. No roosters, geese, guinea fowl or turkeys may be kept in any district.

D. All animals shall be provided with a covered, predator-proof coop or cage or other shelter that is thoroughly ventilated, designed to be easily accessed and cleaned, and of sufficient size to permit free movement of the animals, exclusive of areas used for storage of materials or vehicles. The total area

of all coops or cages on a lot shall not be greater than thirty-two (32) square feet for up to six (6) animals.

E. Chickens and other birds shall have access to an outdoor enclosure adequately fenced or otherwise bounded to contain the birds on the property and to prevent access by dogs and other predators and providing at least ten (10) square feet of area for each bird.

F. In CBD, NMU, UMU, I1 and LC all regulations applicable in the RM and R1 districts shall apply except that the number of such animals shall be limited to one (1) animal for each eight hundred (800) square feet of lot area.

C. Bees

The keeping of bees, and associated beehives, shall be governed by the following regulations.

A. In R1 and RM Districts, the following regulations shall apply.

1. Number**.** No more than one (1) beehive shall be kept for each 2,400 square feet of lot area, and no beehive shall be kept on a lot less than 2,400 square feet in area.

2. Location and Setbacks. Beehives may not be located in any of the required setbacks. The front of any beehive shall face away from the property line of the Residential property closest to the beehive.

3. Fences and Shrubs. A solid fence or dense hedge, known as a "flyway barrier," at least six (6) feet in height, shall be placed along the side of the beehive that contains the entrance to the hive, and shall be located within five (5) feet of the hive and shall extend at least two (2) feet on either side of the hive. No such flyway barrier shall be required if all beehives are located at least twenty-five (25) feet from all lot lines and for beehives that are located on porches or balconies at least ten (10) feet above grade, except if such porch or balcony is located less than five (5) feet from a lot line.

4. Water Supply. A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the site throughout the day to prevent bees from congregating at neighboring swimming pools or other sources of water on nearby properties.

5. Prohibitions. No Africanized bees may be kept on a lot in any district.

6. In zoning districts other than R1 and RM, all regulations applicable in Residential Districts shall apply except that the number of beehives shall be limited to one (1) for each 7,500 square feet of lot area.

Veterinary Clinic/Hospital

A. Animal boarding facilities must be located indoors.
B. Exterior exercise areas must be located to the rear or interior side of the principal building on the lot.
C. Any exterior exercise areas must be designed to provide shelter against weather.

D. Fencing of exterior exercise areas is required. Fencing must be between six and seven feet in height to prevent escape, and must be buried a minimum of one foot to prevent escape by digging beneath the fence.

Automotive uses.

A. General.

1. All permanent storage of material, merchandise and equipment shall be within the principal building.

2. During business hours open-air outdoor storage of materials, merchandise and equipment shall be permitted. During nonbusiness hours storage of materials, merchandise and equipment shall take place within the principal building or within closed, secure containers such as outdoor storage cabinets.

3. No partially dismantled or wrecked vehicle or any unregistered vehicle shall be stored for more than 72 hours outside of an area unless screened from public view.

4. All entrance and exit lanes, parking areas and vehicle storage areas shall be surfaced with an all-weather, durable and dustless surface and stormwater shall be account for according to state, local and federal regulations.

B. Auto-body and auto repair stations shall be subject to the following requirements:

1. No repair activity shall take place within 50 feet of any R1 or RM boundary line.

2. All repairs shall be performed within an enclosed principal building on the premises.

3. Screened storage areas shall be provided for damaged vehicles awaiting repairs and for any vehicles requiring longer-term storage while awaiting repair.

4. Accessory sales of vehicles are allowed provided they do not:

    a. Constitute more than 25% of the lot size; or

    b. Occupy the required parking spaces.

C. Car washes shall be subject to the following requirements:

1. All vehicular access shall be from an arterial or collector street.

2. All washing and machine-dry operations shall be conducted within a building.

3. The building exit for automobiles that have completed the washing and machine-drying process shall be set back a minimum of 50 feet from the nearest point of any street property line.

4. No washing, vacuuming, steam cleaning, waxing, polishing or machine-drying operation, and no building within which such operations are conducted, shall be permitted within 100 feet of a R1

or RM district.

5. All lot lines abutting or adjacent to R1 or RM districts or uses shall be screened by a solid masonry wall or fence not less than four feet nor more than six feet in height.

6. Queuing lane(s) shall not interfere with onsite or offsite pedestrian and vehicular circulation.

7. The applicant shall submit an analysis of the traffic impact of the proposed development that addresses the following:

    a. Projections of site-generated and off-site traffic to be expected on streets in the vicinity upon completion of the proposed development; and

    b. Recommendations for techniques or improvements to deal with any projected traffic congestion or friction.

D. Gasoline/ Convenience Stations shall be subject to the following requirements:

1. When a gasoline/convenience station is located adjacent to a residential use it shall be shielded by wall, fencing or other suitable material which shall serve to screen noise and uncontrolled entrance.

2. When calculating signage square footage for gasoline/ convenience stations, signage shall include all attached and detached signage, canopy signs and signs on pumps.

3. An accessory car wash shall have no more than a single point of access for entering and exiting, shall be arranged to prevent drive-thru operation and shall be limited to a single bay.

E. Vehicle sales/ rental/ storage shall be subject to the following requirements:

1. No such use shall be located within 50 feet of any R1 or RM district boundary line.

2. Any repairs shall be performed only within the principal building on the premises.

3. The showroom shall be oriented toward the public street.

4. Screened storage areas shall be provided for damaged vehicles awaiting repairs and for any vehicles requiring longer-term storage while awaiting repair.

Commercial, Indoor Recreation and Outdoor Recreation:

A. In any district where permitted, no building shall be located within 50 feet of any property line.
B. In any district where permitted, there may be permitted retail sales which are clearly secondary to the principal use.
C. Unenclosed recreational facilities shall be located not less than 25 feet from any property line except where greater distances are otherwise required in this chapter.
D. Illuminated signs and other lights shall be directed away or shielded from adjoining residential proprieties in such a way as not to disturb the occupants of the properties.

E. No public address system shall be permitted except where such system is inaudible at any property line.
F. All commercial outdoor recreation facilities shall provide suitable off-street parking facilities in accordance with this chapter.

Retail, Neighborhood

A. Fuel sales, with the exception of prepackaged fuel canisters, are not permitted.
B. Neighborhood retail shall not include any activity as defined and regulated by the New York State Department of Health, Volume A (Title 10), Part 14 – Food Service Establishments.
C. As part of the application for a special use permit the applicant shall submit a development plan that addresses the following: days/hours of operation; hours of deliveries and services (i.e., trash removal, snow plowing, etc.); provisions to manage and regulate potential impacts of use, including but not limited to: litter and refuse by store patrons, excessive noise, loitering, crime prevention; signage, including both permanent and advertising/promotional signage; staffing; landscaping; and a building floor plan.

Dwelling, Accessory Units (ADU)

A. Only one ADU per single family dwelling, or one ADU per two family dwelling shall be permitted.
B. ADUs shall not be permitted on the same lot as a multi-family dwelling or apartment.
C. The property owner shall occupy either the primary or the ADU as his or her primary residence.
D. In the R1 district:
    1. The ADU shall be contained within the principle structure or allowed in an accessory structure attached to the principle structure.
    2. When an ADU is attached to a principal dwelling structure, only one entrance to the structure may face the front lot line.
E. An ADU shall not exceed 800 square feet of gross floor area.
F. An ADU, whether detached or attached to a primary dwelling structure, may be directly accessed from an alley, but shall not be accessed via a driveway separate from that serving the primary dwelling structure.
G. No Major Home Occupation (Type 2) shall be allowed in any ADU.
H. Adequate parking shall be provided.

Emergency Services

Emergency Service facilities shall be permitted in all NMU, RM, R1 Districts subject to the following:
A. Such facility is necessary to serve the surrounding residential area where it is not possible to serve such area from a facility located in a less restrictive district.
B. Such facility shall not be located on a primarily residential street unless no other site is available and shall be so located as to draw a minimum of vehicular traffic to and through such street.

Essential Services

Essential services R1 and RM Districts and shall be subject to the following regulations:

A. Such facility shall not be located on a residential street, unless no other site is available, and shall be so located as to draw a minimum of vehicular traffic to and through such street.
B. The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.
C. Adequate fences, barriers and other safety devices shall be provided, and the facility shall be landscaped in accordance with the provisions of this chapter.
D. Noise emitted from electric substations shall not be greater than permitted in accordance with the performance standards set forth in this chapter.

Geothermal Energy Systems

A. Geothermal Energy System components shall conform to applicable industry standards including those of the American National Standards Institute (ANSI).
B. Open Loop Geothermal Systems. No person shall install or maintain an open loop geothermal system within the City.
C. Closed Loop Geothermal System. A person may install and operate a closed loop geothermal system only in accordance with the requirements of this Section.
    1. Applicant shall submit a certificate of compliance demonstrating that the proposed system has been tested and approved by Underwriters Laboratories (UL) or other approved independent testing agency.
    2. The systems shall be tested hydrostatically at one and one half times the maximum system design pressure, but not less than one hundred (100) psi. The duration of each test shall not be less than fifteen (15) minutes. All geothermal systems must be pressure checked to the original standard by a licensed geothermal contractor every three (3) years from the certification system date. Results from the test shall be submitted to the Building Department. No person shall operate a system if a test reveals that it is likely to leak the heat transfer liquid.
    3. All above-ground and under-ground equipment shall comply with the setback requirements of the respective zoning district.
    4. Equipment, piping, and all other devices shall not be located in any easement or right-of-way.

Greenhouse

A. Plants shall not be grown or animals raised directly in the soils in Industrial Zone without prior testing that proves suitability for the proposed use.

Home Occupations

A. Where permitted, each dwelling unit may have one minor home occupation, one major home occupation, two minor home occupations, or a combination of one major and one minor home occupation. A dwelling unit may not have two major home occupations.
B. Classifications of home occupations
    1. Minor home occupations. A home occupation in which no persons other than members of the family residing on the premises are engaged in the occupation, which has no visible exterior

evidence of the conduct of the occupation, which does not create need for off-street parking beyond normal dwelling needs, which does not generate additional traffic, which is not permitted to have a sign, and in which no equipment is used other than that normally used in household, domestic or general office use.

2. Minor Home occupations are permitted in R1 Zones only so long as all the following conditions are observed:
    a. Not perform of any services on site.
    b. Minor home occupations may not serve customers on site.
    c. Not store any materials on site.
    d. Minor home occupations shall not be allowed any signage.
    e. Not have delivery or pickup services that would exceed the average volume for the residential neighborhood where the home occupation is located.
3. Major home occupations. A home occupation in which not more than one person other than members of the family residing on the premises is employed, which has not more than one nonilluminated sign not exceeding one square foot in area as visible exterior evidence of conduct of the occupation and which accommodates both dwelling and home occupation parking needs off the street and other than in a required front yard.

Live-Work

1. The residential and the commercial space must be occupied by the same tenant, and no portion of the live/work unit may be rented or sold separately.
2. The commercial component shall be restricted to the unit and shall not be conducted in the yard, garage or any accessory structure.
3. The commercial component shall not detract from, or otherwise be a nuisance to, the residential character or appearance of the neighboring dwelling units.
4. Signage intended to promote on-site commercial uses shall be restricted to a two square foot sign permanently affixed to door or wall of the business component.
5. No more than two employees (excluding residents of the dwelling unit) shall work or report to work on the premises.
6. The commercial use shall not generate external noise, odor, glare, vibration or electrical interference detectable to the normal sensory perception by adjacent neighbors.
7. In-person sales of products generated on-site shall be limited to a ground floor retail storefront.
8. Prohibited Commercial Uses in Live/Work Units.
    a. The retail sale of food and/or beverages with customers arriving on-site. This does not include online (Internet) sales, mail order, or off-site catering preparation;
    b. Entertainment, drinking, and public eating establishments;
    c. Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale;
    d. Sales, repair or maintenance of vehicles, including automobiles, boats, motorcycles, aircraft, trucks, or recreational vehicles;

e. Trade or Private Schools. This excludes private instruction of up to two students at any one time.

Kennel, Commercial and Dog Daycare

A. The minimum lot area is one acre.
B. No dog kennel, runway or exercise pen shall be located within 200 feet of any RM or R1 district.
C. No outdoor exercise or play area shall be used without an attendant present.
D. All dogs must be licensed.

Marijuana Cultivation

A. Plants shall not be grown or animals raised directly in the soils in Industrial Zone without prior testing that proves suitability for the proposed use.

Municipal/Civic, Utility Use (see existing Community Facilities)

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, repair shops or garage facilities are included, and provided that a special use 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.

Storage Yard

A. Outdoor storage shall be screened from view of neighboring properties and the public rights-of-way by wall, fencing or other suitable material which shall serve to screen noise and uncontrolled entrance.

Solar Energy Systems

A. Roof-Mounted Solar Energy Systems.

1. Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.

2. Height. Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.

3. Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:

a. Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.

4. Roof-Mounted Solar Energy Systems that use the energy onsite or offsite shall be exempt from site plan review under this ordinance.

B. Ground-Mounted Solar Energy Systems.

1. Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures in all districts.

2. Height and Setback. Ground-Mounted Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district.

3. Lot Coverage. The surface area covered by Ground-Mounted Solar Panels shall be included in total allowable lot coverage of the underlying district.

4. All such Systems in R1 and RM Districts shall be installed in the side or rear yards.

5. Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are subject to site plan review under this ordinance.

C. Large-Scale Solar Energy Systems.

1. Large-Scale Solar Energy Systems are permitted through the issuance of a special use permit within the LC, and I1 and I2 districts, subject to the requirements set forth in this, Ordinance.

2. Special Use Permit Application Requirements. For a special permit application, the site plan application is to be used and supplemented by the following provisions.

a. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

b. Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.

c. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

d. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing, trimming and application of herbicides.

e. Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application.

Compliance with this plan shall be made a condition of the issuance of a special use permit under this Ordinance. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer be used, it shall be removed by the applicant or any subsequent owner. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation. If the Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the City may remove the system and restore the property and impose a lien on the property to cover these costs to the City.

f. Prior to the acceptance of a Special Use Permit Application, the applicant must provide the City with a performance guarantee as provided herein. The amount of the guarantee shall be 1.25 times the estimated decommissioning cost or $50,000.00, whichever is greater. Estimates for decommissioning the site shall be determined by a Professional Engineer or a licensed contractor. It is the responsibility of the applicant to provide the City with the certified cost estimate.

g. The following types of performance guarantees are permitted:

i. A surety or performance bond that renews automatically, includes a minimum 60-day notice to the City prior to cancellation, is approved by the City Clerk, and is from a company on the U.S. Department of Treasury's Listing of Certified Companies. A bond certificate must be submitted to the City Common Council each year verifying the bond has been properly renewed.

ii. A certified check deposited with the City Clerk, as escrow agent, who will deposit the check in an interest-bearing account of the City, with all interest accruing to the applicant. Funds deposited with the City Clerk will be returned when the solar farm is decommissioned and any necessary site restoration is completed.

iii. A no-contest irrevocable bank letter of credit from a banking corporation licensed to do business in the State of New York. The terms of the letter must include the absolute right of the County finance director to withdraw funds from the bank upon certification by the County Manager that the terms and conditions of the performance guarantee have been breached. The letter of credit must be valid up to 12 months from the date the performance guarantee was approved.

h. The full amount of the bond, certified check, or letter of credit must remain in full force and effect until the solar farm is decommissioned and any necessary site restoration is completed.

3. Special Use Permit Standards.

a. Setback. Large-Scale Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district. The Large-Scale Solar Facility may require further setbacks if adjacent to an existing residential use

b. Height. Large-Scale Solar Energy Systems shall not exceed 20 feet in height.

c. Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of 3 acres.

d. Lot Coverage. A Large-Scale Solar Energy System that is ground-mounted shall not exceed 70% of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.

e. All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Planning Board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.

f. Large-Scale Solar Energy systems should, where feasible, integrate recreational facilities such as trails.

g. Visual Impact

(i) No Solar Energy System shall be installed in a location where it is determined by the Planning Board to have a significant detrimental impact on the neighborhood character.

(ii) Large Scale Solar Energy Systems shall not be installed in any location that would substantially detract from or block the view of a portion of a recognized scenic viewshed as viewed from any public road right-of-way or publicly owned land within the City of Utica.

4. A Long Environmental Assessment Form ("LEAF") and a Visual EAF Addendum Form shall be prepared in accordance with the State Environmental Quality Review Act.

5. Removal of abandoned Large Scale Solar Energy Systems

a. Any Large-Scale Solar Energy System found to be unsafe by the Commissioner of Code Enforcement shall be repaired by the owner or lessee or tenant to meet federal, state, and local safety standards or removed within six months.

b. Upon failure of said owner or lessee or tenant to remove the Large-Scale Solar Energy System within 90 days after notice is provided, the Enforcement Officer shall be authorized to enter upon said property and remove therefrom any said illegal large scale solar energy system at costs to the owner, lessee or tenant. No liability shall attach to the City or any officers, employees or agents of the City, except for acts of affirmative negligence in connection with the removal of any such Large-Scale Solar Energy Systems.

Vending Lots

A. All vendors shall

1. Have a license or permit from the City.
2. Be subject to public health requirements of the County and State
3. Be subject to the ADA

B. The Planning Board may review, but not limited to the, following items:

1. Set hours
2. Review pedestrian and vehicular requirements including the potential for parking
3. Lighting
4. Trash removal
5. Restroom facilities
6. Signage

I/IMU Buffer Requirements

Buffers. Side and rear yard setbacks from all non-industrial districts and any lots with any preexisting residential use and the I and IMU Districts shall be increased by a minimum of an additional fifteen (15) feet and shall incorporate screening to substantively screen the site from view through the use of evergreen vegetation. Fences may be used but shall not include chain link fences.

Article XII Planned Development District

Sec. 2-29-271 Purpose and intent.

A. Planned development districts shall be those for which the quality of development shall be of primary concern for reasons that may relate to unique characteristics and circumstances of geography, topography, surrounding development, the special goals and objectives of the community, and special factors pertaining to public health and safety, permanence of buildings, aesthetics, and intrinsic as well as extrinsic values of property.

B. The Planned Development District regulations and procedures may apply to the development of parcels currently zoned planned development or to presently open or vacant lands, and may apply to parcels of relatively small size as well as large scale development, depending upon the nature of the proposed use and improvements and their relationship with other surrounding uses and the overall characteristics of the area in which located.

C. Planned development is intended to encourage innovations in land development and renewal techniques so that the growing demands of the community may be met with greater flexibility and variety in type, design and layout of sites and buildings and by the conservation and more efficient use of open spaces and other amenities generally enhancing of urban life.

D. Application of planned development should also encourage a more efficient use of land and of public or private services and utilities and reflect the changes in the technology of land development so that resulting economies may accrue to the benefit of the community at large.

Sec. 2-29-273 Origination of proposals for change of zone to planned development.

A. A proposal for a Planned Development District may be made by the Planning Board or its professional staff, or by the Common Council, or by the Urban Renewal Agency, or by any other public body, public benefit corporation, development agency or government; whether or not actual development of the proposal is to be carried out by the proponent or under sponsorship of the proponent.

B. Any person, corporation, partnership or association having an ownership interest in a proposed district, or any group of owners united in interest, acting jointly and in pursuant to any agreement to carry out the proposal in separate ownership, may propose a Planned Development District in accordance with the procedures hereinafter established, where such individual owner or group of owners in making such proposal intends to act as developer or sponsor of the development if the proposal is adopted and indicates the requisite capabilities to carry out such proposal.

C. A parcel, district or site proposed for planned development need not be under single ownership where the proposed development consists of a group of structures or improvements capable of being developed separately but in accordance with a single, unitary plan, and in which the separate owners indicate their express intentions to enter into such private agreements between or among themselves as will facilitate their mutual enterprise, and assure its completion as planned to the satisfaction of the community.

Sec. 2-29-274 Procedure on proposals for projects in Planned Development Districts.

It is the intention of this division that proposals for planned development be of such community significance and concern that they be made at the early planning stage in order to allow time for full evaluation and orderly processing, to consider alternative plans or methods, to assess the full impact and consequences of the proposal, to formulate modifications or conditions that may be necessary, and to provide ample opportunity to determine the best means for implementation. The Planning Board or the Common Council may, from time to time, promulgate such guidelines, rules and regulations as may be deemed necessary for the orderly presentation and processing of such proposal in addition to those contained in this article, which guidelines may also establish permanent or temporary priorities on the type, location, or scale of development proposals.

A. All proposals for Planned Development District shall be submitted directly to the Planning Board for site plan review through its planning staff.

B. The professional planning staff, or planning consultant, as the case may be, shall prepare a professional opinion regarding the verification of data shown in the proposal, the proposal's relationship with the existing zoning and with the Master Plan, the possible effects of the proposal upon the surrounding properties, the general harmony with the essential character of the area, the aesthetic and design qualities of the proposal, and such other factors or considerations as may be appropriate in considering the merits of the proposal.

C. After hearing the proponent or proponents during the site plan review process, the Planning Board shall consider the proposal and make findings regarding the following:
    1. That the proposal substantially conforms with the Master Plan for the City, with regional comprehensive plans, and with other manifest expressions of public development policy.
    2. That there is a need for the proposed development in the proposed location and that there is a reasonable probability of economic success of the proposal.
    3. That the existing character of the neighborhood will be adversely affected and that adequate safeguards are provided to minimize possible detrimental effects of the proposed use on adjacent properties and on the neighborhood in general.
    4. That there is ample provision for water supply, sanitary sewage disposal, storm and surface water drainage and other utilities.
    5. That there is adequate availability to schools, to police and fire protection, to parks and recreational facilities and other community facilities and public services.
    6. That there are no social, economic or cultural consequences likely to follow the proposed development which are not consistent with desirable community standards or public policy.
    7. That the location, height and bulk of buildings and structures on the site are in proportion to each other and relate well to other structures and visual perspectives in the vicinity.
    8. That careful attention has been given to the patterns of pedestrian circulation and to the effective use and design of open spaces, landscaping, exterior facade and amenities.
    9. That vehicular access is adequate to and within the site, that parking and loading spaces are adequate and well located relative to the uses and structures to be served, that there are no conflicts between vehicular traffic and the other uses and activities proposed.

10. That the proposed installation of driveways, lighting, signs, landscaping, fencing, screening, and other site details are generally in harmony with the proposed structures, with adjacent properties, with the rights and interests of the general public, and with the design qualities and objectives suggested by this chapter and the Planning Board.

D. Upon submission to the planning staff of all final plans and specifications for the development, the matter shall be placed on the agenda of the Planning Board at its next regular meeting.

E. In considering the final plans and specifications for a development in a Planned Development District, the requirements for lot area, lot width, building coverage, building heights and other bulk, density or parcel specifications of this chapter, or the other physical requirements of this chapter shall be observed as general guidelines, and may be more or less restrictive in accordance with the recommendations of the planning staff, or planning consultant, or in accordance with criteria or guidelines promulgated or adopted from time to time by the Planning Board.

F. The Planning Board may adopt its appropriate resolution recommending to the Common Council that the parcel be rezoned to the designated Planned Development District and shall transmit such resolution and the other supporting materials relating to the proposal, including the professional opinion, to the Common Council. The resolution may contain conditions, restrictions or limitations that the Planning Board may deem requisite to its recommendation in addition to the conditions, restrictions or limitations provided in this chapter.

G. In the event that the Planning Board declines to recommend rezoning, or in the event that the Planning Board does not act upon the proposal within a period of 45 days after the date that full submissions is made to the planning staff, the proponent may submit the proposal directly to the Common Council with a request that the said Common Council consider the proposal upon its own motion. The proponent shall, in such instance, make full disclosure to the Common Council of the reasons for Planning Board failure or refusal to approve. Before taking final action upon such proposals, the Common Council shall hear and consider any statements or opinions of the Planning Board as to the merits of the proposal or reasons for its failure or refusal to approve.

Sec. 2-29-275 Procedures before the Council.

A. Upon receipt of a resolution of the Planning Board recommending a zone change by amendment, the Council shall proceed in accordance with the Amendment provisions of this chapter.

B. Referral to the Planning Board of the proposed amendment shall be deemed waived unless a substantial change in the proposal shall occur after date of the Planning Board recommendation.

Sec. 2-29-276 Expiration.

In the event that development authorized by the Planning Board in a Planned Development District has not been commenced and diligently prosecuted within 24 months from the date when the final plans and specifications were approved by the Planning Board; then and in that event the Planning Board shall notify the Common Council of the dates of such events and the Common Council shall immediately upon its own motion institute an amendment to rezone such Planned Development District back to the previous zoning district designation in accordance with the procedures as set forth in this chapter; except that the one-year limitation provided above may, upon written application by the proponent or developer stating

reasons or excuse for delay, be extended by the Common Council for such additional periods of time as it deems appropriate.

Sec. 2-29-277 Changes and Amendments

A. Any change or amendment to an approved planned development district may be referred to the Planning Board for site plan review at the discretion of the Department of Urban and Economic Development.
B. Any change or amendment to an approved planned development district which is not determined to be exempt from site plan review by the Department shall be reviewed by the Planning Board and shall not become effective until approved by ordinance of the Common Council.
C. Any changes that are determined to be exempt from site plan review may be approved pursuant to this chapter and do not require further approval by the Common Council.

Sec. 2-29-278 **through Sec. 2-29-290. (Reserved)**