

City  
of  
Niagara Falls, New York



Zoning Ordinance  
(July 24, 2009)



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## **1300 ADMINISTRATION**

### **1301 GENERAL PROVISIONS**

#### **1301.1 Purposes**

There is hereby established a Zoning Ordinance for the City of Niagara Falls, N.Y. (hereinafter the "City"), which is set forth in the text, map, and schedule contained herein. This Zoning Ordinance is adopted for the purposes set forth in paragraphs 24 and 25 of Section 20 of the New York State General City Law, and more particularly for the protection and promotion of the public health, safety and welfare in the following manner:

- A. Guiding the future development of the City in accordance with the Comprehensive Plan, as it may be duly amended from time to time, by regulating land use in a manner designed to enhance the relationships between and among residential, commercial, industrial and open space areas.
- B. Protecting and enhancing the character and the social and economic stability of each of such areas and encouraging their orderly and beneficial development.
- C. Protecting and conserving the value of land throughout the City and the value of buildings appropriate to the various districts established by this Zoning Ordinance.
- D. Bringing about the gradual conformity of the uses of land and buildings throughout the City with the provisions, purposes and intent of the Comprehensive Plan, as amended, and this Zoning Ordinance, and minimizing conflicts among the uses of land and buildings.
- E. Promoting and guiding the efficient provision of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to the uses of land and buildings throughout the City consistent with the public policies articulated in the Comprehensive Plan, as amended.

#### **1301.2 Short Title**

This local law shall be known and may be cited as the "Niagara Falls Zoning Ordinance", and hereinafter referred to as Zoning Ordinance.

#### **1301.3 Effective Date**

This Zoning Ordinance shall take effect on July 24, 2009.

#### **1301.4 Effect On Existing Laws**

Any provisions of the City Charter or the Codified Ordinances not specifically modified by this Zoning Ordinance shall remain in full force and effect.

### **1301.5 Separability**

If any section, subsection, sentence, clause, phrase, or other part of this Zoning Ordinance is for any reason held by court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Zoning Ordinance. The City Council hereby declares that it would have passed this Zoning Ordinance and each section, subsection, sentence, clause, phrase, and other part thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, or other parts be declared invalid.

### **1301.6 All Inclusive Provisions**

All provisions of this Zoning Ordinance shall be strictly construed and shall be applicable in all instances. In addition, all overlay districts (Chapter 1319), landscaping (Chapter 1322), off-street parking and loading (Chapter 1325) and signage (Chapter 1121) requirements shall be applicable to all uses in all Districts unless otherwise specified.

### **1301.7 Permits, Licenses, Certificates, Authorizations To Conform**

No board, agency, officer, or employee of the City shall issue, grant, or approve any permit, license, certificate, or other authorization, including Special Permits and Adjustments by the Board of Appeals, for any construction, reconstruction, alteration, enlargement or moving of any building or for any use of any land or building that would not be in full compliance with the provisions of this Zoning Ordinance. Any such issuance, grant or approval shall be subject to suspension or revocation in accordance with §1301.10 of this Zoning Ordinance.

### **1301.8 Interpretation**

The provisions of this Zoning Ordinance shall be considered to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

- A. Except as specifically herein provided, it is not intended by this Zoning Ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinance or any rule or regulation previously adopted, or any permit, license, certificate or other authorization previously issued, granted or approved, or which shall be adopted, issued, granted or approved pursuant to the law and not in conflict with the provisions hereof relating to the use of buildings or land or to the erection, construction, establishment, moving, alteration, or enlargement of any building or improvement; nor is it intended by this Zoning Ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, that whenever any provision of this Zoning Ordinance imposes greater restrictions on the erection, construction, establishment, moving, alternation or enlargement of buildings or on the use of any building or of land in any of the districts established by this Zoning Ordinance than are imposed by such existing provisions of law or ordinances or by such rules, regulations, permits, licenses, certificates, or other authorizations, or by such easements, covenants, or agreements, then the provisions of this Zoning Ordinance shall control.
- B. All words and terms stated in the present tense include the future; the singular includes the plural, unless the context requires otherwise; the masculine includes the feminine and

neuter genders; the term "shall" is mandatory, not directory; the term "City" shall include the following terms: City of Niagara Falls, City Council, Board of Appeals, Planning Board, Chief Executive, City Administrator, City Departments. Other designated boards and/or officers mean the respective boards and officers designated by the City of Niagara Falls; the term "person" includes an individual, corporation, partnership, firm, or other combination of persons.

- C. Where requirements may be considered contradictory, the stricter requirement shall be applied.
- D. The Director of Inspections and the Director of Planning shall interpret this Zoning Ordinance. Any interpretation of an order, requirement, decision or determination in connection with this Zoning Ordinance shall be final except as otherwise provided by law.
- E. Any person aggrieved by an order, requirement, decision, interpretation or determination of a City administrative official charged with the enforcement of this Zoning Ordinance may apply to the Board of Appeals for an appeal of such requirement, decision, interpretation or determination in accordance with the requirements of General City Law Section 81-a.

#### **1301.9 Interpretation Zoning 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, alley, railroad, the centerline shall be construed to be the boundary.
- B. Where such boundaries are indicated as approximately following park or reservation lines or the lines of watercourses, such lines shall be construed to be such boundaries.
- C. Where such boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.
- D. In un-subdivided land and where a district boundary divides a lot, the location of such boundary, unless dimensions shown on the map indicate the same, shall be determined by the use of the scale appearing thereon.
- E. Any boundary shown extended into the Niagara River shall be deemed to extend to the boundary of the City.
- F. Where a district boundary divides a lot in one ownership and not less than 50 percent of the area of such lot lies in the less restricted district, the regulations prescribed by this Zoning Ordinance for the less restricted district shall apply to the remainder of such lot up to the distance of not more than 50 feet from such boundary.

## **1301.10        Enforcement**

### **A.        Administration**

The provisions of this Zoning Ordinance shall be administered by the City Planning Office, the Department of Building Inspections, the City Clerk and such other persons or entities as the City Council shall direct. The responsibility for the enforcement of this chapter is delegated to the Director of Inspections, or a designee, or as otherwise designated in the City Charter or the Niagara Falls Municipal Code.

### **B.        Availability of remedies**

The following remedies and procedures may be employed to enforce the provisions of this Zoning Ordinance and shall be deemed cumulative to other enforcement procedures and remedies available by law. In addition to the remedies provided for in this section 1301.10, the City Planning Office and Department of Building Inspections or other City designee may maintain an action or special proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction a violation of this Zoning Ordinance. Such action may also be instituted by any property owner who may be particularly damaged by any violation of this Zoning Ordinance.

### **C.        Violations**

Any building erected, constructed, altered, enlarged, converted, moved, or used contrary to any of the provisions of this Zoning Ordinance, and any use of any land or building which is conducted, operated, or maintained contrary to any of the provisions of this Zoning Ordinance including, without limitation, conditions of site plan approval pursuant to Section 1324 of this Zoning Ordinance and other requirements established pursuant to Section 1322 of this Zoning Ordinance, shall be declared a violation of this Zoning Ordinance. Upon becoming aware of any such violation, the Director of Inspections or other duly authorized public servant shall serve or cause to be served, in accordance with the procedures in section 1301.10(E) and (G) of this Zoning Ordinance, notice of such violation. Enforcement may be pursued against an owner, occupant, mortgagee or vendee in possession, operator, assignee of rents, receiver, executor, trustee, lessee, agent or other person, firm or corporation directly or indirectly in control of the premises or part thereof, or any person, regardless of said person's relationship to the property, found to be in violation of any of the provisions of this Zoning Ordinance. If such violation has not ceased within such reasonable time as may be specified in such notice, the Director of Inspections or other duly authorized public servant shall take appropriate action. The Director of Inspections shall maintain, or cause to be maintained, a record of every identifiable complaint of an offense and the action or actions taken with respect to such violation.

### **D.        Penalties for Violations**

Any person, corporation, or other entity, whether as owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this Zoning Ordinance or permits any such violation or fails to comply with any of the requirements thereof, or who erects, constructs, alters, enlarges, converts, moves or uses any building, or uses any land, in violation of any detailed statement or plan submitted by him and approved under the provisions of this Zoning

Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$250.00 for each and every day or imprisoned not more than thirty days, or both.

Such person or corporation shall be guilty of a separate offense for each and every day during any portion of which any violation of this Zoning Ordinance is committed, continued, or permitted by any such person or corporation, and shall be punishable therefore as provided herein.

For conviction of a second offense at the same location, committed within a period of five years, the aforementioned maximum daily penalties and prison terms shall be doubled. These remedies are cumulative and not exclusive and shall be in addition to any other remedies provided by law. The Director of Inspections may, in his sole discretion, suspend the penalties authorized hereunder for any person, corporation or entity that remedies the identified offense or offenses within the period for compliance, if any, that may be specified in accordance with § 1301.10(E) of this Zoning Ordinance.

E. Procedure for enforcement

1. Administrative Enforcement

- a. Whenever the Director of Inspections or other designee declares that a building, vacant area or activities are in violation of this Zoning Ordinance, he or she may serve upon the person, corporation or other entity committing or permitting such violation, any of the following:

- (i) A Citation reciting the facts constituting such violation, specifying in what respect the building, vacant area or activities are a violation of this Zoning Ordinance and requiring removal or discontinuance of such violation within a specified period for compliance after service of the Citation;

- (ii) A Notice of Building Permit Suspension or Revocation. A validly issued building permit may be suspended or revoked where the Director of Inspections or his designee finds that:

- (a) There has been a false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based;

- (b) The building permit was issued in error and should not have been issued in accordance with applicable law;

- (c) The work performed under the permit is not being conducted in accordance with the provisions of the application; or

- (d) The permittee fails or refuses to comply with a stop work order issued by the Director of Inspections or duly appointed public officer. A Notice of Suspension or Notice of Revocation shall recite the basis therefore and shall be posted on the premises and served personally or by certified mail upon the permittee; or

(iii) Stop Work Order. A written Stop Work Order stating the conditions under which the work may be resumed by posting the Stop Work Order on the premises and serving the Stop Work Order in accordance with Section 1301.10 (G) of this Zoning Ordinance upon the persons, corporations or other entities deemed by the Director of Inspections to be in violation of this Zoning Ordinance.

- b. Citations issued pursuant to this section 1301.10 shall, as appropriate, provide that if the violation in question is not removed within a prescribed period for compliance, the Department of Building Inspections or its designee may remove or cause the removal of such violation by taking such corrective action as is deemed necessary. Any Citation which calls for the repair or removal of any building that endangers the health, safety and welfare of the general public must be written, served and administered in accordance with the requirements of N.Y. General City Law § 20(35).
- c. Whenever the Department of Building Inspections or other City designee issues or causes to be issued a Citation pursuant to this section which requires the owner to remove existing violations within a prescribed period, the owner may request a meeting with the Director of Inspections or other City designee. The meeting shall be held prior to the expiration of the period for compliance so prescribed unless the violation constitutes an immediate danger to human life or health.

2. Judicial Enforcement.

- a. Whenever the Director of Inspections or a designee declares that a violation of this Zoning Ordinance has occurred and the violator fails to correct the violation in accordance with a Citation duly issued pursuant to this section, the Director of Inspections or a designee may maintain an action or special proceeding in a court of competent jurisdiction to recover penalties for and compel compliance with or restrain by injunction a violation of this Zoning Ordinance.
- b. Failure to appear in the designated local criminal court may result in the court issuing a summons or warrant of arrest based upon the local criminal court accusatory instrument filed.

3. When a violation is not removed.

- a. If a violation is not removed by the owner within the time prescribed after service of a Citation, the Department of Building Inspections or other City designee may, except as otherwise provided herein, proceed with the removal of such violation as provided in the Citation or may cause the same to be done.
- b. If the owner or tenant or violator interferes in any way with or causes delay to the taking of corrective action authorized by this section, the City may commence a special proceeding or action in State Supreme Court to restrain such interference or delay.

4. When removal of a violation is ordered.

- a. If the Department of Building Inspections or other City designee proceeds to execute a Citation issued by it or a court order for the removal of a violation, the City may let contracts therefore. The cost of executing such Citations, whether or not carried out pursuant to court order, may be met from any appropriations made therefore or, if such appropriation has not been made or is insufficient, from the proceeds of the sale of obligations pursuant to the Local Finance Law. The Department of Building Inspections or other City designee shall keep a record of such notices and orders, together with the acts done and items of cost incurred in their execution.
  - b. Notwithstanding the foregoing and in addition to any other remedy available, the City may maintain an action against the owner to recover the cost of executing such orders.
  - c. The term "owner," as used in this section, shall include any person or entity, directly or indirectly in control of a building or vacant area or part thereof.
- F. Building Permits
  - 1. The Director of Inspections or a designee shall:
    - a. Issue permits for proposed projects that are found to comply with all applicable provisions of this Zoning Ordinance and other laws, ordinances and codes; and
    - b. Inspect approved projects during construction and upon completion to ensure compliance with this Zoning Ordinance and other laws, ordinances and codes.
  - 2. Building Permit Issuance.
    - a. Every application for a building permit, a Certificate-of-Occupancy/Compliance, or a license shall contain or be accompanied by such information as required by the City to be necessary for the enforcement of the provisions of this Zoning Ordinance. Such required information may include drawings, survey and/or sketches.
    - b. No Building Permit shall be issued unless and until any and all relevant applications to the Planning Board and or Zoning Board of Appeals have been approved and all conditions for such approval satisfied or, alternatively, until a sufficient guarantee is in place. Such guarantee shall be in the form of a performance bond, letter of credit or other security, sufficient to cover the full cost of required infrastructure of improvements as estimated by the Planning Board or its designee. The estimated cost of work shall be provided by the applicant and is subject to approval by the Planning Board or its designee.
    - c. Any security required under this section must be provided pursuant to a written security agreement with the City, approved by the Planning Board and also approved by the City attorney as to form, sufficiency and manner of execution, and shall be limited to:

- (i) a performance bond issued by a bonding or surety company;
- (ii) the deposit of funds in, or a certificate of deposit issued by, a bank or trust company located and authorized to do business in New York State;
- (iii) an irrevocable letter of credit from a bank located and authorized to do business in New York State;
- (iv) obligations of the United States of America; or
- (v) any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of such improvements. If not delivered to the City, such security shall be held in a City account at a bank or trust company.

- d. Term of security agreement. Any such performance bond or security agreement shall run for a term to be fixed by the Planning Board, but in no case for a term longer than three years, provided, however, that the term of such performance bond or security agreement may be extended by the Planning Board with consent of the parties thereto. If the Planning Board shall decide at any time during the term of the performance bond or security agreement that the extent of building development that has taken place is not sufficient to warrant all the improvements covered by such security, or that the required improvements have been installed as provided in this section and by the Planning Board in sufficient amount to warrant reduction in the amount of said security, and upon approval by the legislative body of the city, the Planning Board may modify its requirements for any or all such improvements, and the amount of such security shall thereupon be reduced by an appropriate amount so that the new amount will cover the cost in full of the amended list of improvements required by the Planning Board.
- e. Default of security agreement. In the event that any required improvements have not been installed as provided in this section within the term of such security agreement, the Planning Board may thereupon declare the said performance bond or security agreement to be in default and collect the sum remaining payable thereunder; and upon the receipt of the proceeds thereof, the City shall install such improvements as are covered by such security and as commensurate with the extent of building development that has taken place but not exceeding in cost the amount of such proceeds.

#### G. Service of Notice

Except as otherwise provided in this section 1301.10, all notices hereunder shall be served personally in accordance with the provisions of the Civil Practice Law and Rules, or sent by first class mail to either the violator's tax mailing address, if the violation relates to a property or building and the owner is the person to be served, or otherwise to the violator's last known address, or left with an agent or a person of suitable age and discretion at the place of violation or tax mailing address or last known address.



**1301.11        Amendments**

Any additions or amendments to this Zoning Ordinance, when passed in such form as to indicate the intention of the Council to make the same a part hereof, shall be deemed incorporated in this Zoning Ordinance.



## **1302 ZONING ADMINISTRATION**

### **1302.1 Variances**

The Board of Appeals, on appeal from the decision or determination of any administrative official charged with enforcement of this Zoning Ordinance, shall have the power to grant use and area variances, subject to the standards and procedures in §81-a and §81-b of the N.Y.S. General City Law and in this Section 1302.

#### **1302.1.1 Use Variance**

The term "use variance " shall mean the authorization by the Board of Appeals for the use of land for a purpose, which is otherwise not allowed or is prohibited by the applicable provisions of this Zoning Ordinance. No such use variance shall be granted by the 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 Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- A. the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- B. the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- C. the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- D. the alleged hardship has not been self-created.

The 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.

#### **1302.1.2 Area Variance**

The term "area variance" shall mean the authorization by the Board of Appeals for the use of land in a manner, which is not allowed by the dimensional or physical requirements of the applicable provisions of this Zoning Ordinance. In considering applications for area variances, the 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:

- A. 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;
- B. whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
- C. whether the requested area variance is substantial;
- D. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- E. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The 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.

#### 1302.1.3 Imposition Of Conditions

The 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 and the identified Description and Purpose statements for the relevant district, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

### **1302.2 Special Permit**

#### 1302.2.1 General Provisions

The Board of Appeals shall have the power to grant Special Permits, subject to the standards and procedures in § 27-b of the N.Y.S. General City Law and in this Section 1302. The Board of Appeals shall, as appropriate, refer variance and Special Permit applications to the Planning Board for site plan review. Except as otherwise provided in § 1327 of this Zoning Ordinance, the term "Special Permit" shall mean the authorization for a particular land use which is permitted in this Zoning Ordinance as denoted by the letter "S" in the Land Use Table in Schedule 1, which uses are subject to the requirements imposed by Section 1328 of this Zoning Ordinance to ensure that the proposed use is in harmony with this Zoning Ordinance and will not adversely affect the surrounding community if such requirements are met.

On application, the Board of Appeals may authorize, by resolution, the issuance of a Special Permit for any of the uses permitted in the district in which such use is proposed to be located. In authorizing the issuance of a Special Permit, the Board of Appeals shall take into consideration the public health, safety, and welfare, and shall prescribe appropriate conditions and safeguards to ensure the accomplishment of the following objectives:

- A. All proposed structures, equipment, or material should be readily accessible for fire and police protection.
- B. The proposed use is of a location, size, and character that, in general, will be in harmony with the appropriate and orderly development of the district in which it is proposed, and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
- C. Any use located in or directly adjacent to a residential district shall consider the following: The location and size of such use, the nature and intensity of operations involved or conducted in connection therewith, its site layout, signage, and relation to streets, shall be such that both pedestrian and vehicular traffic, and assembly of persons in connection therewith, will not be hazardous, inconvenient, or incongruous with the residential district or conflict with the normal traffic of the neighborhood.
- D. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of screening and landscaping on the site shall be such that the use will not hinder or discourage the appropriate development of the use of adjacent land and buildings or diminish the value thereof.
- E. Any additional conditions and safeguards that may be required to further the objectives of the City Comprehensive Plan and the relevant Description and Purpose statements for the appropriate district.

#### 1302.2.2 Periodic Review Of Special Permits

The Board of Appeals may require that Special Permits be periodically reviewed and/or renewed. Such review or renewal shall be granted following due public notice, and may be held only upon a determination by the Board of Appeals that there is or has been noncompliance with conditions imposed by the Board of Appeals in conjunction with the issuance of the original Special Permit. In such cases the Special Permit holder shall be required to fully comply with such conditions within a period not to exceed ninety days of the filing and of the Board of Appeals' determination hereunder and service of said determination to the Special Permittee in accordance with § 1301.10(G) of this Zoning Ordinance.

### **1302.3 Board of Appeals Procedures**

#### 1302.3.1 Application Procedures

Any person aggrieved by an order, requirement, decision, interpretation or determination of a City administrative official charged with the enforcement of this Zoning Ordinance may apply to the Board of Appeals for an appeal of such requirement, decision, interpretation or determination in accordance with the procedures and requirements of General City Law Section 81-a, except as otherwise provided herein.

For variance and Special Permit applications, the Board of Appeals shall conduct a public hearing within sixty-two days from the day a complete application is received. Public notice of

said hearing shall be printed in the Official City newspaper at least five days prior to the date of the hearing.

For variance applications, the Board of Appeals shall provide any necessary notices required under General City Law § 81-a(10)) within the times periods prescribed therein. For Special Permit applications, the Board of Appeals shall provide any necessary notices required under General City Law § 27-b(7)) within the time periods prescribed therein. The Board of Appeals shall comply with all applicable provisions of the State Environmental Quality Review Act and Chapter 1326 of this Zoning Ordinance before rendering a final determination on any variance or Special Permit applications.

#### **1302.3.2      Board Of Appeals Decisions**

The Zoning Board of Appeals shall decide upon appeals and applications within sixty-two days after the public hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Board of Appeals shall be filed with the city clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant. Where the Zoning Board of Appeals denies an application for a variance or Special Permit hereunder, the applicant must wait at least six months before submitting a new application for a variance or Special Permit to the Zoning Board of Appeals for the same premises.

#### **1302.4          Amendments**

##### **1302.4.1      Methods Of Amendment**

###### **A.      Purpose**

The amendment process herein established is intended to provide a means for making changes in the text of this Zoning Ordinance and the Official Zoning Map that have more or less general significance or application. It is not intended to relieve particular hardships nor to confer special privileges or rights of a particular property owner but is intended as a tool to adjust the provisions of this Zoning Ordinance and the Official Zoning Map in light of changing, newly discovered or newly identified conditions, situations or knowledge and maintain consistency between the zoning and the goals, objectives and policies contained in the Comprehensive Plan.

###### **B.      Substantive Amendments**

The City Council may, after receiving recommendation of the Planning Board and after due public notice and hearing, amend any part of the zoning text, schedules or zoning map. An application to amend this Zoning Ordinance may be initiated by:

1.      A verified petition of owners of fifty per centum or more of the frontage in any district or part thereof, which shall be accompanied by the requisite fee, no part of which shall be returnable;
2.      An application by an individual property owner; which shall be accompanied by the requisite fee, no part of which shall be returnable.

3. The adoption by City Council of a resolution of intention to amend, which resolution, upon adoption, shall be referred to the Planning Board; or
4. The Planning Board, by a vote of not less than five members, by the adoption of a resolution of proposal to amend.

C. Minor Amendments

Minor text amendments addressing spelling, grammar, numerical references and other minor modifications which are not substantive may be proposed by the Director of Planning or his designee and submitted directly to the City Council for approval without recommendation of the Planning Board.

1302.4.2 Amendment Procedure

A. Minimum Findings

1. Petitions

Petitions and applications under § 1302.4.1(B) shall be filed with the Planning Board and shall include a preliminary proposal, along with a rezoning application and requisite fee. The Planning Board shall determine the completeness of petitions and applications and issue a recommendation following a public hearing as specified herein prior to submission of said petition to the City Council. Zoning amendment petitions shall include, but not be limited to, the following background information:

- a. Proposed land uses, including number of dwelling units, gross floor area and land area for each such land use.
- b. Proposed road system and all existing and proposed rights-of-way and easements, whether public or private.
- c. The interior common open space system and a statement as to how it is to be owned and maintained.
- d. The interior drainage system and how it is proposed to be connected to the drainage systems of adjoining areas.
- e. If the development is to be staged, clear indication of how the staging is to proceed.
- f. Evidence of how the proposal would meet the planning objectives of the Comprehensive Plan and/or the proposed District.
- g. Evidence to demonstrate applicants competence to carry out the plan and his awareness of the financial and organizational scope of such a project.

- h. Such further and other documentation as the Planning Board may deem necessary or appropriate.
- i. Part 1 of a completed Full Environmental Assessment Form or, if appropriate, a draft Environmental Impact Statement.

If a petition or application is determined to be incomplete, the Planning Board shall provide written notice to the petitioner or applicant along with an explanation of the petition's deficiencies. No further processing of the application shall occur and no public hearings shall be scheduled until the deficiencies are corrected. If the deficiencies are not corrected by the petitioner or applicant within 30 days, the petition shall be considered withdrawn.

## 2. Resolutions

Board resolutions to amend this Zoning Ordinance shall address the items in Section 1302.4.2 (A)(1) to the extent applicable and appropriate.

### B. Notice and Public Hearing by Planning Board.

- 1. The Planning Board shall hold a formal Public Hearing on any such petition, application or resolution. A public hearing on a rezoning petition shall be held within 40 days of the Planning Board's receipt of a completed zoning amendment petition. Except as otherwise provided herein, notice of a public hearing on a petition, application or resolution filed under § 1302.4.1(B) shall be given by at least one publication in the official newspaper of the City at least ten days before the date of such hearing.
- 2. Except as otherwise provided in Section § 1302.4.2(B)(3), if the proposed amendment consists of or includes a change in any zoning district boundary, then such notice shall also be given by regular United States mail to the owners of all land lying within a distance of 500 feet from the exterior boundaries of land involved, as the names of such owners appear on the assessment records of the City. The foregoing requirements as to mailed notices shall be substantially observed, but any minor inaccuracy in giving such notice shall not invalidate the proceedings that are involved.
- 3. The special notice requirements in subsection (B)(2) shall not apply where the petition or resolution involves amendments to the boundaries of multiple zoning districts encompassing more than ten acres provided, however, that notice of the public hearing for such petitions or resolutions shall be published in the official newspaper of the City at least three times, not more than 30 nor less than 10 business days before the date of the public hearing.

### C. Planning Board Recommendation.

Subsequent to the public hearing by the Planning Board, the Planning Board shall, at a public meeting, adopt a resolution setting forth its recommendations to the City Council with respect to the proposed amendment. In recommending the adoption of any amendment, the Planning Board shall fully state its reason(s) for such recommendation. The recommendation shall, at a minimum, be based on the following findings:



1. The proposal conforms to the Comprehensive Plan of the City of Niagara Falls and the proposal meets the intent and objectives as expressed therein.
2. A summary of the findings of the Public Hearing.
3. Any conditions that makes the amendment advisable.
4. The proposal is conceptually sound in that it meets community needs in the design of the proposed roadway system, land use configuration, open space and drainage systems, scale of the elements, both absolute and as they relate to one another and that proposed uses are of such location, size and character that in general, will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification.
5. There are adequate public facilities, services, and utilities available or proposed to be made available to serve the development.

If there is an unfavorable report with a recommendation to deny the petition, the Planning Board's resolution shall specify the reasons for such findings. In such case, the Planning Board may recommend further study.

D. Affect of Planning Board Recommendation.

No amendment of this Zoning Ordinance that has not been approved by the Planning Board shall be adopted except by unanimous vote of the City Council. Failure by the Planning Board to report to the City Council its recommendations within sixty days after the date of the Public Hearing shall be deemed to be a recommendation for approval by the Planning Board, unless such proceedings have theretofore been terminated.

E. City Council Decision

The City Council shall either approve a proposed amendment by ordinance duly enacted, or adopt the proposed amendment, with or without conditions, or deny the proposed amendment. A final decision by the City Council on a petition to amend under §1302.4.1(B)(1) shall be made within 40 days of the filing of the Planning Board's recommendation, or its failure to act as provided above, except as otherwise provided herein. In the event that the City Council, prior to the expiration of said 40 day period, requests further information from the Planning Board, the time limit for its decision on a petition shall be extended to 70 days. The failure of the City Council to act within the time limits herein specified shall be deemed a refusal of the petition.

Before taking any final action on a resolution or petition, the City Council shall comply with all applicable New York State General Municipal Law referral requirements and SEQRA requirements and render its own independent conclusions under SEQRA. In approving a proposed zoning amendment with or without conditions, the City Council shall adopt a resolution accepting the findings of the Planning Board under section 1302.4.2(C) of this Zoning Ordinance and setting forth such additional findings that the City Council may deem necessary and appropriate.

#### F. City Council Vote

Except as provided in 1302.4.2(D), a zoning amendment shall be effected by a simple majority vote of the City Council, except that an amendment shall require the approval of at least three-fourths of the members of the City Council in the event such amendment is the subject of a written protest, presented to the City council no later than 24 hours before the City Council is scheduled to consider the amendment, and duly signed by:

1. The owners of twenty percent or more of the area of land included in such proposed change; or
2. The owners of twenty percent or more of the area of land immediately adjacent to that land included in such proposed change, extending one hundred feet therefrom; or
3. The owners of twenty percent or more of the area of land directly opposite thereto, extending one hundred feet from the street frontage of such opposite land.

#### 1302.4.3 Amendment Disapproved

If any amendment is disapproved by the City Council, no petition for substantially the same amendment shall be received by the Planning Board for a period of 6 months from and after the date of such disapproval.

#### 1302.4.4 Withdrawing Petition For Amendment

Any petition for an amendment may be withdrawn at any time by the filing of a verified petition of withdrawal signed by not less than a majority of the number of persons who signed the original petition and such withdrawal shall terminate the proceedings initiated by the original petition; and any proceedings for an amendment initiated by a resolution of the City Council or the Planning Board may be terminated by the body that initiated the same at any time that such proceedings are before such body, provided in any event that any hearing of which notice has been given shall be held. Failure of the applicant to pursue the application shall result in abandonment of the subject application and shall be the equivalent of the filing of a verified petition of withdrawal.

## **1303 DEFINITIONS**

### **1303.1 General Provisions**

For purpose of the Zoning Ordinance, certain words and terms used herein are defined as follows:

Words not specifically defined shall have their ordinary dictionary meaning as in Webster's New International Dictionary; construction and building terms shall use New York State Uniform Fire Prevention and Building Code (hereinafter the "Uniform Code") definitions unless specifically identified otherwise:

### **1303.2 List Of Definitions**

#### **1303.2.1 "A" ACCESSORY BUILDING / USE**

A building or use subordinate to the principal building or use, which is (a) located on the same zoning lot as the principal building or use; (b) subordinate in area, extent and purpose to the principal building or use served; and (c) customarily incidental to the use of such principal building or use.

#### **ADULT USES**

Adult uses shall be defined to and include the following uses:

- A. **ADULT BOOKSTORE / VIDEO STORE:** an establishment having as a substantial or significant portion of its stock-in-trade, books, magazines, other periodicals, films, slides and video tapes, sound recordings or printed, visual and audio material of any kind, which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities, or any business having a substantial area of its establishment devoted to the sale and display of such material.
- B. **ADULT ENTERTAINMENT CABARET:** a public or private establishment which presents to the public, customers or members, performances by persons who appear nude or semi-nude or live performances that are characterized by their emphasis on the exposure, depiction or description of specified anatomical areas or the conduct or simulations of specified sexual activities.
- C. **ADULT MOTEL:** a motel which is not open to the public generally but excludes minors by reason of age, or which makes available to its patrons in their rooms, films, slide shows, or video tapes, which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities.
- D. **ADULT THEATER:** A theatre that regularly features or offers to the public the presentation of motion-picture films, movies or sound recordings which are characterized

by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities and which are presented to a common audience in an enclosed common area.

- E. PEEP SHOWS: a theater which presents material in the form of live shows, films or video tapes, viewed from an individual enclosure, for which a fee is charged and which is characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities.
- F. SPECIFIED ANATOMICAL AREAS:
  - 1. Less than the completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola.
  - 2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.
- G. SPECIFIED SEXUAL ACTIVITIES:
  - 1. Human genitals in a state of sexual stimulation or arousal.
  - 2. Acts of human masturbation, sexual intercourse, sodomy or bestiality, or
  - 3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

#### ALLEY

A narrow street or passage, which affords a secondary means of vehicular access to abutting lots and is not intended for general traffic circulation.

1303.2.2 “B”

#### BAR

A commercial establishment open to the general public whose primary activity is the sale of alcoholic beverages to be consumed on the premises. Bars include taverns, night clubs and similar facilities serving alcoholic beverages.

#### BASEMENT

As defined pursuant to the Uniform Code.

#### BED AND BREAKFAST

A private owner-occupied and operated residence with one (1) to nine (9) guest rooms where limited overnight lodging and possibly a breakfast are provided for compensation.

### 1303.2.3 “C”

#### CAMPER PARKS

Any land or floor area occupied or designed for transient, but not permanent occupancy by one or more campers, trailers, or motor homes which are located for temporary recreational or travel purposes.

#### CHILD DAY CARE AND SMALL DAY CARE CENTERS

These terms shall be as defined in 18 N.Y.C.R.R. § 413.

#### COLLEGE

Includes colleges and other institutions of higher learning which offer courses of general or specialized study leading to an academic degree, certificate or diploma. Colleges tend to be in campus-like settings or on multiple blocks.

#### COMMUNITY CENTER AND SERVICES

A building or place to be used as a place of meeting, recreation, or social, cultural or educational activity and not operated for profit and in which alcoholic beverages are not normally dispensed or consumed. Examples include libraries, museums, senior centers, publicly owned swimming pools, youth club facilities, and social service facilities.

#### COMMERCIAL VEHICLE

A vehicle with a New York State D.M.V. Commercial designation used primarily for business purposes.

#### COMMUNICATIONS TOWER

A structure, other than a building, on which telecommunications equipment is located. The term includes without limitation, lattice towers, free-standing towers, guyed towers, monopoles, and similar structures.

#### CONTRACTOR'S YARD

Any space, whether inside or outside a building on a parcel of land, used for the storage or keeping of construction supplies, materials, equipment, machinery or vehicles or parts thereof, whether they are in operable or inoperable condition or in active or inactive use by a person or other entity.

#### CULTURAL FACILITIES, PRIVATE

A museum, art gallery or similar use for the purpose of displaying, preserving, exhibiting and selling objects of interest.

## CULTURAL FACILITIES, PUBLIC

See “Community Center and Services”

### 1303.2.4 “D” DECK

As defined pursuant to the Uniform Code.

### DRIVE THRU

A building which, by design of physical facilities or service permits customers to receive or obtain a product or service while remaining in a motor vehicle, and may include fast-food establishments, banks and similar services.

## FAMILY DAY CARE AND GROUP FAMILY DAY CARE HOMES

These terms shall be as defined in 18 N.Y.C.R.R. § 413.

### 1303.2.5 “E”

### 1303.2.6 “F” FLOOR AREA

As defined pursuant to the Uniform Code In addition, floor area used for parking of motor vehicles shall not be included in the calculation of the total or gross floor area for a proposed project.

### FLOOR AREA RATIO

The ratio of the floor area of a building, excluding spaces within a basement as defined in this ordinance, divided by its lot area

### 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.

### 1303.2.7 “G”

### 1303.2.8 “H”

### HEIGHT OF BUILDING

As defined pursuant to the Uniform Code. Height shall be measured from street elevation or from the average grade surrounding the building.

## HISTORIC DISTRICT

Any geographic area which contains places, sites, structures, or buildings which have a special character and ambiance or historical value or aesthetic interest and which represent one or more periods of styles of architecture of an era of history and is so designated by the City Council under the provisions of Chapter 1335 of the City Ordinances or is so designated by the State or Federal Government.

## HISTORIC LANDMARK

Any individual site which contains places, structures, or buildings which have a special character and ambiance or historical value or aesthetic interest and which represent one or more periods of styles of architecture of an era of history and is so designated by the City Council under the provisions of Chapter 1335 of the City Ordinances or is so designated by the State or Federal Government.

## HOSPITAL

Any institution, including a sanitarium, which maintains and operates facilities for overnight care and treatment of two or more non related persons as patients suffering mental or physical ailments, but not including any dispensary or first aid treatment facilities maintained by a commercial or industrial plant, educational institution, convent or nursing home.

## HOTEL

A facility offering transient lodging accommodations to the general public for a fee and which may provide additional services such as restaurants, meeting rooms and recreational facilities.

1303.2.9        “I”

1303.2.10      “J”

## JUNKYARD

A lot, land, or structure, or part thereof, used for collecting, storage, depositing, handling, and sale of wastepaper, rags, scrap metal, or other nonputrescible material; or anything that may be constituted as outdoor storage; or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running conditions and for the sale of parts thereof; regardless of whether or not if such activities are done for profit. This term shall not include the storage of trash or garbage. The placing, parking, storing, or permitting to be placed, parked, or stored in view of any public road of more than two dismantled or unregistered and inoperative motor vehicles on any piece of property for more than one day or if on the premises of a legally established garage or repair shop for a period of more than thirty days shall be deemed to constitute the operation of a junkyard on said premises.

1303.2.11 “K”

KENNEL OR CATTERY

Any building or lot where four or more domesticated dogs or cats are raised and/or boarded for the purpose of sale, breeding, grooming, training, or exhibition, or are boarded for a fee, or are sheltered for humanitarian reasons.

1303.2.12 “L”

LOT

A parcel of land occupied or capable of being occupied by a building and its accessory buildings or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Zoning Ordinance, having not less than the minimum area required by this Zoning Ordinance for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for a building on such land.

LOT of RECORD

A lot or parcel shown on a subdivision plat duly recorded in the office of the City or County Clerk, or a lot or parcel described by metes and bounds which has been so recorded prior to the effective date of this Zoning Ordinance or any amendment thereof that would affect such lot.

LOT AREA and LOT SIZE

The total horizontal land area included in lot lines.

LOT COVERAGE

The ground floor area (as measured from the exterior of the buildings) of all buildings on a lot divided by the total lot area multiplied by 100%.

LOT, WIDTH

The distance between the side lot lines measured across the required front yard minimum setback line parallel with the street.

1303.2.13 “M”

MANUFACTURING, HEAVY

This use category includes establishments or facilities which manufacture or process products from raw materials, which are typically marketed off the premises or marketed to other than the ultimate consumer. This use category typically involves the on-site storage of fuels or hazardous chemicals in bulk quantities or generate noise, vapors, odor, vibration, illumination, hazardous waste, pollution or particulate matter that may be offensive or obnoxious to adjacent land use



and/or that are subject to regulatory license, permit or other approval requirements. This use category shall include any packaging of the product being manufactured on-site. Examples of heavy manufacturing uses include, without limitation, large-scale food and beverage operations, intensive metal fabrication facilities, and plastic processing and production.

#### MANUFACTURING, LIGHT

This use category includes establishments or facilities which manufacture products from previously prepared materials of finished parts or finished products, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales and distribution of such products but excluding basic industrial processing and custom manufacturing. Establishments or facilities in this use category typically do not generate noise, vapors, odor, vibration, hazardous waste, pollution, or particulate matter that may be offensive or obnoxious to adjacent land uses.

#### MOTEL

A building or group of buildings, whether detached or in connected units, used as individual sleeping quarters with direct outside access, designed primarily for travelers, and provided with related offices and accessory off-street parking facilities. The term "motel" includes buildings designated as motor lodges and similar terms but shall not be construed to include parking areas for recreational vehicles or motor homes, or to include dwellings except for that of the resident owner or manager.

#### MOTOR VEHICLE SALES AND LEASING

Any building, land area, or other premises used or intended to be used for the display and retail sale or leasing of automobiles, boats, trucks or other similar vehicles.

#### MOTOR VEHICLE SERVICE AND REPAIR, MAJOR

An establishment involved in the repair of construction equipment, commercial trucks and similar heavy equipment, including automobiles, where major repairs are conducted. This use category typically includes automobile repair garages, transmission shops, body and fender shops and similar uses where major vehicular or construction equipment repair activities are conducted.

#### MOTOR VEHICLE SERVICE AND REPAIR, MINOR

Any building, land area, or other premises used or intended to be used for the retail dispensing or sales of automobile fuels, which activity may be accompanied by accessory uses such as sales of lubricants, tires, accessories or supplies, minor automobile repairs or a single-bay auto wash; provided however, that automobile wrecking, major automobile repairs, parking or storing of automobiles for hire, and the operation of more than one towing vehicle shall not be deemed permissible accessory uses.

1303.2.14 “N”

NURSERY SCHOOL

This term shall be as defined in 8 N.Y.C.R.R. Part 125.

NURSING HOME

An establishment which provides full-time convalescent or chronic care, or both, for three or more individuals who are not related by blood or marriage to the operator and who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. No care for the acutely ill or surgical or obstetrical services shall be provided in such an establishment. A hospital shall not be construed to be included in this definition.

1303.2.15 “O”

OFFICE

The use of a building or a portion of a building for the provision of executive, consulting, professional, management, or administrative services. Typical uses include, but are not limited to, administrative offices and services including advertising, accounting, architecture, archival services, design, engineering, financing, government, human health care, insurance, investment, law, medical, dental, laboratory testing service, personnel, property management, real estate, secretarial services, telephone answering, travel, and business offices of public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with office services. Office uses also include vocational, trade and business schools and television and radio studios.

1303.2.16 “P”

PARKING AREA / LOT

An off-street area used for the temporary parking of more than four motor vehicles and available to the general public, or to accommodate employees, clients, customers, or residents, excluding private driveways.

PARKING, COMMERCIAL

Any land area that is used or intended to be used for parking that is not accessory to a specific building or use.

PARKING SPACE

An area for the temporary storage of a motor vehicle, which meets the dimensional requirements of this Zoning Ordinance and is located in other than a public street or other public way and having a permanent means of access to a public street or public alley without requiring passage through another parking space.

## PARKS, OPEN SPACE AND NATURAL AREAS

An area or portion of land, either landscaped or essentially unimproved, which contains or is dedicated to restoring or protecting the ecological function of waterways, flora, fauna, and/or unoccupied area open to the sky.

## PARKS, PUBLIC USE AND RECREATION AREAS

Land areas consisting of or including natural vegetated areas, landscaped areas, outdoor recreation, community gardens, and/or or public squares. Examples include parks, ball fields, golf courses, cemeteries, plazas, and nature preserves where public access is provided.

1303.2.17 “Q”

1303.2.18 “R”

## RAIL TRANSIT FACILITY

Includes train stations and their accessory structures.

## RECREATION, COMMERCIAL OUTDOOR

A recreational land use conducted outside of a building, characterized by athletic fields, miniature golf, skateboard parks, swimming, bathing and other therapeutic facilities, tennis, handball, basketball courts, batting cages and similar uses.

## RECYCLING OPERATION

A use in an enclosed building where one or more nonputrescible recyclable materials are accumulated, stored, sorted, or processed, by crushing, breaking, sorting and/or packaging, but not including any use, which is defined as a “Junkyard”. A recycling operation may receive recyclable materials from drop-off centers, from a household or business pick-up operation, or from commercial or industrial uses. A recycling operation does not include the processing of yard debris or other decomposable material except for clean paper products. This use shall not include burning, incinerating or thermally destroying solid waste.

## RESIDENTIAL USE CATEGORIES

- A. ACCESSORY DWELLING UNIT: A separate and complete dwelling unit established in conjunction with and subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.
- B. DUPLEX/SEMI DETACHED: A building designed as a single structure, containing two separate living units, each of which is designed to be occupied as a separate, permanent residence.
- C. DWELLING UNIT: one or more rooms consisting of living, cooking, sanitary, and sleeping facilities arranged for the use of one family.

- D. GROUP LIVING: Characterized by the residential occupancy of a structure by a group of people who are not considered part of a household. Typical uses include dormitories, fraternities and sororities, nursing homes, homes for the disabled, and post incarceration facilities.
- E. MULTI-DWELLING STRUCTURE: a building containing three or more dwelling units.
- F. SINGLE DETACHED DWELLING: An unattached building containing one dwelling unit.
- G. TOWNHOUSE: A one-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light and ventilation.

## RESTAURANT

A structure in which the principal use is the preparation and retail sale of food and/or beverages for on-premises consumption.

## RETAIL SALES AND SERVICE

The sale, lease, or renting of new or used goods, articles or consumer services to the general public. Such services may include, by way of illustration, the sale of electronic equipment, furniture, branch banks, laundromats, personal care services, health clubs, gyms, bowling alleys, pool halls, repair of televisions and other appliances, bicycles, clocks and shoes, office equipment, tailoring and locksmiths. This use category does not include vehicle sales, lumberyards, sale of landscape materials.

## RELIGIOUS FACILITIES

A building or buildings used for public worship by a congregation. Religious facilities include churches, synagogues, temples, mosques, and other places of religious worship.

1303.2.19 “S”

## SATELLITE EARTH STATION

An accessory structure capable of receiving or sending, for the sole benefit of the principal user, radio or television signals from a transmitter/receiver, or transmitter relay located in planetary orbit.

## SCHOOL, PUBLIC AND PRIVATE

Include public and private schools at the primary, elementary, middle, junior high, or high school level that provide state-mandated basic education. These uses do not include vocational, trade or business-type schools (see “OFFICE”).

## SHOPPING CENTER

A building or group of buildings developed as a single integrated development containing a combination of retail establishments occupying five or more acres and sharing common on-site parking or access.

## SIGHTSEEING AGENCY

As defined pursuant to Chapter 375 of the City of Niagara Falls Codified Ordinance.

## SIGN

As defined pursuant to Chapter 1121 of the City of Niagara Falls Codified Ordinance.

## STORAGE, SELF-SERVICE

A building or group of buildings containing separate storage compartments which may be leased or rented individually to the public.

## STORY

As defined by the Uniform Code.

## STRUCTURE

Anything constructed or erected with a fixed location on the ground above grade but not including, the use of which requires location on the ground, or attachment to something having location on the ground.

## SWIMMING POOL

As defined by the Uniform Code.

1303.2.20 "T"

## TELECOMMUNICATION FACILITY

A facility used in connection with the provision of wireless communication services, including cellular telephone services, personal communications services, radio and television broadcast services and private radio communications services, which are regulated by the Federal Communications Commission in accordance with the Telecommunications Act of 1996 and other federal laws. The term shall include antenna(e), principal and accessory telecommunication equipment and supporting masts, monopoles and structures, towers, buildings, appurtenances servicing same, required parking or landscaped areas, and other accessory development accessory thereto.

## TEMPORARY USE

A use established for a fixed period of time with the intent to cease such use upon the expiration of the time period, which shall not exceed six months. Such uses do not involve the construction or alteration of any permanent structure

## TOURISM and SIGHTSEEING-ORIENTED

Businesses and establishments providing services for persons traveling for pleasure including sightseeing agencies, guides, tourist booths, and similar activities. This definition does not include accommodation establishments such as hotels, motels and bed and breakfasts which offer the sale of tours as a service incidental to the provision of lodging but do not advertise such tours to the general public.

## TOURIST BOOTH

Any structure upon any plot of land, the majority of the floor area of which is used for the reservation or sale of sightseeing tours. This definition shall not apply to the unadvertised sale of tours located in a hotel/motel lobby as a service incidental to the provision of lodging.

1303.2.21 “U”

## URBAN RENEWAL

As defined pursuant to Article 15, Section 502 of the New York State General Municipal Law.

## URBAN RENEWAL AREA

As defined pursuant to Article 15, Section 502 of the New York State General Municipal Law and as adopted the Niagara Falls Urban Renewal Agency and made part of the Zoning Ordinance as shown on Schedule 3.

## UTILITY, PUBLIC

Publicly owned and operated utilities such as water distribution, electricity transmission, utility substations, and waste water collection infrastructure. In addition, these uses include public safety facilities such as fire and police stations and municipal buildings. This term shall not include energy producing facilities including wind turbines and similar alternative energy technologies.

## UTILITY, PRIVATE

Private sector utilities or service providers including ground-wired and cable telecommunication infrastructure; overhead or underground electric and gas transmission and distribution lines. This term shall not include energy producing facilities including wind turbines and similar alternative energy technologies.

1303.2.22 “V”

#### VETERINARY CLINIC

An animal hospital, or any facility for the medical care and/or treatment of animals, including shelters and related facilities but shall not be construed to mean an animal kennel.

1303.2.23 “W”

#### WAREHOUSE

A building or premises used for the storage and distribution of wholesale goods, wares and merchandise, excluding bulk storage of petroleum, hazardous substances and materials that are flammable or explosive.

#### WASTE-RELATED

Uses that involve the receipt, collection, processing, re-use, energy recovery or other management of solid, liquid, sanitary or hazardous wastes generated off-site. Such uses shall include, without limitation, composting and bioremediation facilities.

#### WHOLESALE ESTABLISHMENT

An establishment primarily engaged in selling and/or distributing merchandise to retailers, users, firms, or other wholesalers, as well as activities involving the movement and storage of products and equipment.

1303.2.24 “X”

1303.2.25 “Y”

#### YARD, FRONT

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

#### YARD, REAR

A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

#### YARD, SIDE

A yard between the side line of the lot and the nearest line of the 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 line, as the case may be.

1303.2.26 “Z”

ZONING MAP, OFFICIAL (SCHEDULE 8)

The map delineating the boundaries of districts, along with the zoning text shall comprise the City of Niagara Falls Zoning Ordinance.

**1304 RESERVED**

**1305 RESERVED**

**1306 RESERVED**

**1307 RESERVED**

**1308 RESERVED**

**1309 RESERVED**



## **1310 DISTRICTS**

The 1310-1319 series of Chapters and Chapter 1121 describes the permitted uses and development standards for the specified districts



## **1311 DISTRICTS, BOUNDARIES and MAPS**

Refer to Schedule 9

### **RESIDENTIAL:**

R1	Detached Single
R2	Doubles
R3	Multi-Family
R4	Heritage

### **COMMERCIAL:**

C1	Neighborhood
C2	Traditional
C3	General

### **DOWNTOWN:**

D1	Downtown
D2	Gorge View

### **INDUSTRIAL:**

I1	Business Park
I2	Industrial

### **OPEN SPACE:**

OS

### **INSTITUTIONAL:**

INS

### **NEGOTIATED PLANNED DEVELOPMENT:**

NPD



## 1312 RESIDENTIAL DISTRICTS

### 1312.1 Descriptions And Purpose

Throughout the city, residential development should reinforce historic development patterns and be pedestrian-oriented with buildings oriented to the sidewalk with a strong emphasis on creating a consistent built form, and a safe inviting front yard and streetscape.

#### A. R1 DETACHED SINGLE

- R1-A Low-Density: This sub-district is intended primarily for low-density residential development in the form of single-family detached dwellings with an approximate density of seven (7) units per acre.
- R1-B Low Density Waterfront: This sub-district is intended primarily for low-density residential development in the form of single-family detached dwellings with an approximate density of seven (7) units per acre where views of the river are to be preserved.
- R1-C Medium Density: This sub-district is intended primarily for development in the form of single-family detached dwellings with a maximum density of nine (9) units per acre.
- R1-D High Density: This sub-district is intended primarily for development in the form of single-family detached dwellings with a maximum density of eleven (11) units per acre.

#### B. R2 DOUBLES

- R2-A Medium Density: This sub-district is intended primarily for residential development in the form of one- and two family dwellings with a maximum density of seventeen (17) units per acre.
- R2-B High Density: This sub-district is intended primarily for residential development in the form of one- and two-family dwellings with a maximum density of twenty-two (22) units per acre.

#### C. R3 MULTI-FAMILY

- R3-A Low Density: This sub-district is intended primarily for suburban style townhouse and apartment developments, typically providing a significant percentage as landscaped areas.

R3-B Urban: This sub-district is intended primarily for more urban-style developments or combination of residential building types, orientated to the street.

R3-C High Density: This sub-district is intended primarily for residential development, primarily apartments and townhouses, but including single and two-family dwellings. Limited commercial uses may be permitted.

D. R4 HERITAGE

R4 Heritage: The purpose of this district is to protect the authentic architecture, local history and heritage value, historic urban context and neighborhood design and to integrate these elements with the Niagara River Greenway. This district is also intended to establish an appropriate, low-density transition in scale between state parkland and adjacent downtown commercial districts. Accordingly, the form and design of new structures in this district must be sensitive to and consistent with the historic urban pattern and built-form within the district. Limited commercial uses will be permitted subject to design guidelines.

**1312.2 Allowed Uses**

Refer to Schedule 1 – Use Table

**1312.3 Bulk And Density Standards**

			Minimum Setbacks <sup>1</sup>					Maximum Setbacks			
		Min. Lot Size	Max. FAR	Min. Lot Width	Front Yard	Rear Yard	Total Side Yards (w/one side) <sup>3</sup>	Maximum Front Yard Setback	Percent of building façade within maximum setback <sup>2</sup>	Max. Height	Min. Height
R1	A	6,000	n/a	60'	25'	20'	30% lot width (at least 6')	n/a	n/a	35'	n/a
	B	6,000	n/a	60'	30'	30'	30% lot width (at least 6')	n/a	n/a	35'	n/a

					Minimum Setbacks <sup>1</sup>			Maximum Setbacks			
		Min. Lot Size	Max. FAR	Min. Lot Width	Front Yard	Rear Yard	Total Side Yards (w/one side) <sup>3</sup>	Maximum Front Yard Setback	Percent of building façade within maximum setback <sup>2</sup>	Max. Height	Min. Height
	C	4,500	n/a	40'	20'	20'	25% lot width (at least 5')	n/a	n/a	35'	n/a
	D	3,400	n/a	25'	10'	20'	Each side yard 3'	20'	n/a	35'	n/a
R2	A	5,000	n/a	45'	20'	20'	25% lot width (at least 5')	n/a	n/a	35'	n/a
	B	3,400	n/a	25'	10'	20'	Each side yard 3'	20'	n/a	35'	n/a
R3	A	1,400 per unit	1.0	60'	25'	20'	15% lot width up to maximum 15'; or 50% building height	n/a	n/a	45'	n/a
	B	3,400	1.0	25'	5'	20'	Each side yard 3'	20'	n/a	45'	n/a
	C	n/a	n/a	25'	n/a	20'	n/a	15'	75%	60'	n/a
R4		3,400	Refer to 1312. 4(B)	25'	10'	20'	10% lot width (at least 3')	25'	50%	45'	16'

<sup>1</sup> Alternatively, the minimum front yard setback may be set at the average front yard setback of existing adjacent buildings

<sup>2</sup> Describes the percent of building façade facing the street that must abut the city right-of-way or be located within the maximum setback area. Areas set aside for publicly accessible parks or plazas are exempt from the maximum setback area requirement.

<sup>3</sup> No side-yard setback, lot frontage requirements for individual townhouses. Setbacks apply to entire townhouse development

## **1312.4 Additional Regulations And Standards**

The regulations in this chapter state the development standards for the districts. Sites within overlay districts (Chapter 1319) are also subject to additional regulations. Specific uses or development types may also be subject to regulations in the City-Wide Regulations series of chapters, including but not limited to Chapters 1322 and 1325.

### **A. R3-C MULTI-FAMILY HIGH DENSITY DISTRICT:**

Commercial Uses: No structure within this district shall include in excess of 4,000 square feet of space or 20% of the gross floor area of any one building on any one parcel, which ever is larger. Only those commercial uses listed on Schedule 1 and identified as being permitted in R3-C district shall be allowed.

### **B. R4 HERITAGE DISTRICT:**

For lots less than one (1) acre in area: no more than 5,000 square feet of space of a principal structure may be devoted to commercial uses.

For lots one (1) acre or greater in area, on a single lot of record established prior to the effective date of this ordinance (see Section 1301.3): Commercial uses shall not exceed a maximum FAR of 0.5. Combination or amalgamation of lots of records or portions of lots of record after the effective date of this ordinance to meet this minimum lot area requirement shall not be permitted.

On any lot in this district: reconstruction and/or construction of an interpretation of a structure/building that previously existed on the subject lot prior to the effective date of this ordinance (see Section 1301.3) is permitted, without regard to density and square foot limits listed above. Application of this standard is subject to site plan approval and design district standards under Section 1319.2, provided that strict application of these design district standards does not impair the intent to restore overall form of such previously existing structure. In such cases, evidence of the previous structure/building must be documented through verifiable sources that adequately outline the scale and features of the previously existing structure (including, but not limited to: historic maps, photographs, architectural drawings, etc.). The reconstructed structure/building shall be designed to interpret the scale, form, and materials of the previously existing structure to the greatest extent feasible and may only contain permitted uses in the district.



## **1313 COMMERCIAL DISTRICTS**

### **1313.1 Description And Purpose**

#### **A. C1 NEIGHBORHOOD COMMERCIAL**

Purpose: The Neighborhood Commercial District is intended to allow a range of residential and limited small-scale retail and service uses. The businesses allowed in this district are intended to provide convenience services primarily to the immediate surrounding neighborhood. Development shall be pedestrian-oriented, with building setbacks in conformity with the established street character. Parking and outside storage areas are intended to be hidden from the street and/or placed to the rear of structures.

#### **B. C2 TRADITIONAL COMMERCIAL**

Purpose: The Traditional Commercial district is intended to allow for a mix of residential and commercial uses along major travel corridors. It differs from the Neighborhood Commercial district in that permitted uses include a full range of retail, service, office uses serving a local or regional market and residential uses on or above the ground floor. The zone is characterized as pedestrian-oriented with buildings close to or adjacent to the front lot line with parking areas hidden from the street and/or located to the rear of structures and drive-thru uses are restricted.

#### **C. C3 GENERAL COMMERCIAL**

Purpose: The purpose of the district is to allow a more intense and large-scale combination of residential, commercial business, and mixed uses. This zone is predominately automobile oriented with a focus on accessibility to high traffic corridors and servicing a regional market. . Limited light industrial uses may be permitted provided such development includes a significant commercial component. Residential uses allowed in this district are limited to apartment and townhouse-style structures. These districts are intended to ensure that adjacent residential areas are protected from traffic, lighting, noise or other nuisances related to non-residential uses. Overall, development shall be aesthetically pleasing with trees and associated landscaping elements included within the parking area.

### **1313.2 Allowed Uses**

Refer to Schedule 1 – Use Table

### 1313.3 Bulk And Density Standards

				Maximum Setbacks		Minimum Setbacks <sup>1</sup>			
	Sub District	Max. FAR	Min. Lot Width	Maximum Front Yard Setback <sup>2</sup>	Percent of building façade within maximum setback <sup>3</sup>	Front Yard	Rear Yard <sup>4</sup>	Side Yards	Max. Height
C1	A	1.5	n/a	10'	50%	n/a	n/a	n/a	35'
	B	1.5	n/a	Sch. 5	n/a	Sch. 5	Sch. 5	Sch. 5	Sch. 6
C2	A	5.0	n/a	10'	75%	n/a	n/a	n/a	60'
	B	3.0	n/a	10'	75%	n/a	n/a	n/a	45'
C3		.5	50'	n/a	n/a	n/a	n/a	n/a	65'

<sup>1</sup>Where the Commercial Districts abut a Residential District the side, front and rear setback required for a residential use in the abutting district applies. These setback requirements shall only apply to the area of the Commercial District adjacent to the residential use.

<sup>2</sup>Alternatively, the maximum front yard setback may be set at the average front yard setback of existing adjacent buildings

<sup>3</sup>The percent of building façade facing the street that must abut the city right-of-way or be located within 10' of the sidewalk. Areas set aside for publicly accessible parks or plazas are exempt from the maximum setback area requirement

<sup>4</sup>For all floors containing dwelling units, the minimum rear setback is 20'

### 1313.4 Additional Regulations And Standards

The regulations in this chapter state the development standards for the districts. Sites within overlay districts (Chapter 1319) are also subject to additional regulations. Specific uses or development types may also be subject to regulations in the City-Wide Regulations series of chapters, including but not limited to Chapters 1322 and 1325.

A. C1-B SPECIAL BUSINESS DISTRICT

Purpose: to permit the expansion of existing specialty manufacturing, including all normal activities necessary to the operation of a commercial dairy and in addition, to encourage the development of a variety of residential, general commercial and mixed uses. Permitted Specialty Uses, as defined below, shall not exceed a maximum gross floor area of 100,000 square feet for the entire District.

1. Processing of liquid-food stuff into finished edible products including its receiving, storage, packaging and shipping
2. Research and scientific laboratories
3. Warehouse and storage establishments provided that all storage occurs within enclosed structures



## **1314 DOWNTOWN DISTRICTS**

### **1314.1 Description And Purpose**

#### **A. D1 DOWNTOWN**

Purpose: The purpose of these sub-districts is to provide for a diverse combination of commercial, residential, and mixed-use building types within the city's core tourist areas; to be protective of the world-class views of and from the Falls, by graduating building height and massing district-wide and by encouraging design flexibility in creating, maintaining, and optimizing resulting view-sheds. Development is intended to be very intense with high lot coverage and pedestrian-oriented with a strong emphasis on creating safe, active, and inviting streetscapes. Parking, where provided, shall be concealed or structured.

#### **B. D2 GORGE VIEW**

Purpose: The purpose of the district is to provide for enhanced waterfront accessibility and integration of cultural and tourist activities, within this State Park / City / Niagara River Greenway area; to be protective of heritage assets including view-sheds, by controlling building height and massing, and by encouraging unique architecture and design flexibility. Development is intended to be a high-quality, low-intensity, sustainable development, with the intent of establishing a scalable transition of built forms, which mediates between state parkland and adjacent downtown commercial districts. Development should enhance the overall aesthetic of the area; contribute positively to celebrating the river's natural heritage, and enhance the natural and cultural resources therein. Parking, where provided, shall be concealed or structured.

### **1314.2 Allowed Uses**

Refer to Schedule 1 – Use Table

### 1314.3 Bulk And Density Standards

District	Sub-District	Maximum Front Yard Setbacks <sup>1</sup>	Percent of Building Façade Within Maximum Setback <sup>2</sup>	Base Building Height Allowance	Maximum Building Height (Base plus Bonus)
<b>D1</b>	A <i>Near-Casino</i>	10'	100%	320'	Up to 608'
	B <i>Transition</i>	10'	90%	160'	Up to 304'
	C <i>Near-Park</i>	10'	80%	80'	Up to 152'
	D <i>CASINO</i>	10'	100%	400'	n/a
<b>D2</b>	Gorge-View	n/a	n/a	45'	n/a

<sup>1</sup> Where the Downtown District abuts a Residential District the side, front, and rear setback required for a residential use in the abutting district applies. These setbacks shall apply only to the area of the Downtown district adjacent to the residential use.

<sup>2</sup> The percent of building façade facing the street that must abut the city right-of-way or be located within 10' of the sidewalk. Areas set aside for publicly accessible parks or plazas are exempt from the maximum setback area requirement. For hotels, the façade may be within a maximum 30' of the right-of-way to accommodate a one-way driveway to serve as a porte coché (temporary pick-up and drop-off area). This porte coché shall not be used as a parking area and shall be attractively landscaped and integrated with adjacent sidewalks.

### 1314.4 Additional Regulations And Standards

The regulations in this chapter state the development standards for the districts. Sites within overlay districts (Chapter 1319) are also subject to additional regulations. Specific uses or development types may also be subject to regulations in the City-Wide Regulations series of chapters, including but not limited to Chapters 1322 and 1325.

#### 1314.4.1 Height Bonus

##### A. Purpose.

This section sets forth a system of potential building height bonuses that are intended to promote high quality architecture and urban design within specified downtown areas by incentivizing appropriate scaling of building floorplates and the provision of community benefits and district amenities by the private sector for the purpose of creating, protecting and, optimizing world-class views and viewsheds, and otherwise improving the quality of life of City residents and visitors. These incentives and bonuses are also intended to complement and advance the City's urban revitalization policies while also providing greater flexibility in responding to emerging market demands. Developments meeting the requirements of this section shall be eligible for a height bonus over and above the base building height allowances stated in Table 1314.3.

##### B. Eligibility

Projects within the D1 District that meet the criteria specified in subsection D below are eligible for a height bonus. Projects eligible for bonuses are subject to all other applicable approvals and procedures required under this Zoning Ordinance and other federal, state, and local laws. Use or dimensional restrictions otherwise applicable to a project seeking a height bonus shall apply, except where a more restrictive standard set forth below is required as a condition for granting a height bonus, in which case such more restrictive standard shall apply.

##### C. Application Requirements

1. All applications for the bonuses available hereunder shall be included with application or pre-application submissions for site plan approval in accordance with the procedures set forth in Section §1324 of this Zoning Ordinance.
2. All such applications for a height bonus shall specifically address possible impacts on adjacent properties with respect to wind, shadow and the views of and from adjacent properties, particularly with regard to views of important local natural resources such as the Falls, the Niagara River and the Niagara River Gorge. In addition, all applications for a height bonus shall address possible water and sewer impacts, and the demand for and adequacy of police and fire protection services. All applications for height bonuses shall include such technical studies and analyses as the Planning Board may deem necessary and appropriate to evaluate such possible impacts.

## D. Bonus System

Building height bonuses for each proposed building development, expressed as percentages of the base building height allowances specified in Table 1314.3, may be obtained in exchange for the provision of the following specified amenities. No project shall be eligible for a total aggregate building height bonus in excess of 90% of the applicable base building height allowance specified in Table 1314.3 (i.e., total building height may not exceed 1.9x the applicable base building height allowance) provided, however, that applicants may round up to the next full story when applying the building height bonus percentages authorized by this section.

### 1. Public Plaza and Parks Provision

Proposed developments providing for a publicly accessible plaza and/or park shall be eligible for a height bonus of up to 30% of the applicable base building height allowance, as specified in the below table, provided the plaza or park meets the following minimum standards:

- a. Minimum plaza or park site area of 1,000 square feet.
- b. A minimum of 30% of the park or plaza area must consist of landscaping or water features such as fountains, pools or ponds. Such water features shall be permanent and maintained in good, working condition and operated as the season allows.
- c. A minimum of one (1) tree shall be provided per 250 square feet of plaza or park area with a minimum caliper size of 3" for deciduous shade trees and a minimum height of 6' for coniferous trees. Areas of water features and indoor plaza shall not be counted toward calculating the minimum number of trees.
- d. Approximately one (1) linear foot of seating area must be provided for each 30 square feet of plaza or park space.
- e. The plaza or park must be highly visible from the public way and be adjacent and connected to a public sidewalk or way.
- f. The length of the park or plaza may not exceed 3 times its width. Long and narrow public spaces are not considered consistent with the purposes and intent of this section.
- g. Plazas or parks must be open to the public during daytime, or approximately 12 hours per day.
- h. Plazas cannot be used for vehicle parking or vehicle standing.



<b>Area of Landscaped Park or Plaza</b>	<b>Building Height Bonus</b>
1000 s.f.+	10%
1500 s.f.+	15%
2000 s.f.+	30%

2. Structured Parking Provision.

Proposed developments which include structured parking, either below grade and/or above grade, shall be eligible for an additional height bonus of up to 30% of the base building height as follows:

- a. For purposes of determining this bonus, the term "structured parking" shall be defined to include vehicle parking or loading spaces contained in a parking structure either underground, within, or on a raised parking deck.
  - (i) Structured parking that is aboveground and within the footprint of the primary-use building (and not otherwise creating additional impervious surface area on the site) shall be counted twice in calculating "percentage of parking spaces located in a parking structure" as that phrase is used in the below table.
  - (ii) Underground structured parking shall be counted twice for the purposes of calculating "percentage of parking spaces located in a structure" as that phrase is used in the below table.
- b. Above-ground parking or parking structures generally shall be designed to encompass off street loading, trash, and similar functional areas of the primary use development and shall be designed to shield such function to the extent possible, so as to not undermine the desired character of the district or undermine the pedestrian function of the adjoining streetscapes.

<b>Percentage of parking spaces located in a parking structure</b>	<b>Building Height Bonus</b>
25% of provided parking	5%
50% of provided parking	10%
75% of provided parking	20%
100% of provided parking	30%

3. Improved Retail / Commercial Design and Streetscape Provision

Proposed developments, which incorporate retail/commercial uses at grade, with direct pedestrian access to a public right-of-way, shall be eligible for an additional height bonus of up to 30% of the base building height provided the following minimum standards are achieved:

- a. Building façades adjacent to a public right-of-way shall contain fenestration in which window and doorway openings are not less than 75% of the total façade area adjacent to such public right-of-way.
- b. Building façades adjacent to a public right-of-way shall contain no areas of blank walls (not containing any window or storefront openings) greater in length than 30 feet.
- c. Streetscape material enhancement or additional amenities to improve pedestrian / sidewalk areas between the building façade and the street, which incorporates special build features such as concrete designs, colored pavers, brick borders, banding patterns, or similar design enhancements for not less than 75% of the total building façade adjacent to a right-of-way.

<b>Meeting Improved Streetscape Design Criteria</b>	<b>Building Height Bonus</b>
One [1] criteria from #3 above	10%
Two [2] criteria from #3 above	20%
Three [3] criteria from #3 above	30%

E. Maximum Floor Area Per Bonus Floor / Story.

For projects qualifying for a building height bonus, the square footage of each floor or story above the base building height allowance specified in Table 1314.3 shall be limited as follows:

Bonus Floor / Story Elevation	Maximum Permitted Floor Area Per Floor
> Base Building Height up to 1.5 x Base Building Height	50% of building's ground floor area or 18,000 square feet, whichever is less
> 1.5 x Base Building Height up to 1.9 x Base Building Height	9,000 square feet



## 1315 INDUSTRIAL DISTRICTS

### 1315.1 Description And Purpose

#### A. I1 BUSINESS PARK

Purpose: These districts are characterized by those businesses that generate low levels of pollution and noise and low to moderate levels of truck traffic and by those uses which are generally perceived as being inoffensive. Permitted uses include commercial activities in addition to light-industrial and accessory retail uses. Such uses should occupy sites large enough to accommodate on site parking and extensive landscaping requirements in order to generate a prestige image to the overall area.

#### B. I2 INDUSTRIAL

Purpose: This district permits a full range of heavy and light industrial uses which may generate environmental concerns (air and/or water emissions). Uses may include chemical or manufacturing industries together with ancillary uses, such as office space, storage yards and related activities. Such uses shall be in compliance with local, State and Federal rules and regulations.

### 1315.2 Allowed Uses

Refer to Schedule 1 – Use Table

### 1315.3 Bulk And Density Standards

	Minimum Front	Minimum Side	Minimum Rear	Maximum Height Feet	Minimum Lot Area	Maximum Lot Coverage	Minimum Landscaped Area <sup>1</sup>
I1	20	10	10	60'	10,000 sf	50%	30%*
*of which half shall be within front yard							
I2	n/a	n/a	n/a	n/a	n/a	n/a	n/a

<sup>1</sup>Refer to 1322.6 for buffering requirements

### 1315.4 Additional Regulations And Standards

The regulations in this chapter state the development standards for the districts. Sites within overlay districts (Chapter 1319) are also subject to additional regulations. Specific uses or development types may also be subject to regulations in the City-Wide Regulations series of chapters, including but not limited to Chapters 1322 and 1325.

A. Prohibited Uses in I1 and I2 Districts

The following manufacturing uses are not permitted and shall be prohibited:

1. Junkyards
2. Charcoal, lampblack and fuel briquettes manufacture
3. Coal, coke and tar products manufacture
4. Explosives manufacture and storage
5. Fireworks manufacture and storage
6. Manufacture, processing, storage, or distribution of animals or animal byproducts including; fat rendering, fertilizer, soap, tallow, gelatin, glue and size manufacture from animal or fish refuse, offal and dead animals, manure and peat processing and storage, meat packing, slaughter houses or slaughtering of animals, stock yards
7. Stone quarries, gravel pits, mines and stone mills
8. Tar roofing or tar waterproofing manufacture

## 1316 OPEN SPACE DISTRICT

### 1316.1 Description And Purpose

The Open Space District is intended to protect the function, integrity and health of the city's natural system environment, provide for a balance between developed and undeveloped land, protect air and water quality, provide adequate open areas for recreation and conservation and to enhance the city's quality of life and the aesthetic qualities of the city, moderate climate, reduce noise pollution, provide wildlife habitat, and preserve open space in its natural state.

### 1316.2 Allowed Uses

Refer to Schedule 1 – Use Table

### 1316.3 Bulk And Density Standards

		Maximum Setbacks <sup>1</sup>			
	Max Lot Coverage	Front Yard	Rear Yard	Side Yard	Max Height
OS	10%	n/a	n/a	n/a	45'

<sup>1</sup> There are no side, front, or rear yard setbacks required except where Open Space zones abut a Residential District. In these cases, the required setbacks for a residential use in the abutting district applies. These setback requirements shall only apply to the area of the zone that is adjacent to the residential district, not the entire lot.

### 1316.4 Additional Regulations And Standards

The regulations in this chapter state the development standards for the district. Sites within overlay districts (Chapter 1319) are also subject to additional regulations. Specific uses or development types may also be subject to regulations in the City-Wide Regulations series of chapters, including but not limited to Chapters 1322 and 1325.





## 1317 INSTITUTIONAL DISTRICT

### 1317.1 Description And Purpose

The Institutions District is intended to support a broad range of related uses including public and private education, health care, cultural and research centers. This zone allows increased development scale and intensity than would typically be found in the adjacent residential districts. Buildings are designed with a high level of architectural detailing to provide visual interest and create enjoyable, human-scale spaces. Parking is intended to be hidden, behind, to the side, within or underneath structures.

### 1317.2 Allowed Uses

Refer to Schedule 1 – Use Table

### 1317.3 Bulk And Density Standards

		Maximum Setbacks <sup>1</sup>			
	FAR	Front Yard	Rear Yard	Side Yard	Max Height
INSTITUTIONAL	3.0	n/a	n/a	n/a	60'

<sup>1</sup> There are no side or rear setbacks required except where Institutional zones abut a Residential District. In these cases, the side and rear setback required for a residential use in the abutting district applies

### 1317.4 Additional Regulations And Standards

The regulations in this chapter state the development standards for the district. Sites within overlay districts (Chapter 1319) are also subject to additional regulations. Specific uses or development types may also be subject to regulations in the City-Wide Regulations series of chapters, including but not limited to Chapters 1322 and 1325.



## **1318 NEGOTIATED PLANNED DEVELOPMENT DISTRICT**

### **1318.1 Description And Purpose**

To encourage the appropriate development of large parcels of land which are currently vacant or under-utilized. It is in the City's best interest to permit the flexibility necessary to provide for a mixed-use district that would allow residential, retail, office, services, light manufacturing, and other uses as determined by market demand while assuring that such development shall in all respects further the purposes of this Zoning Ordinance and Comprehensive Plan.

### **1318.2 Allowed Uses**

This section is for future use

### **1318.3 Bulk And Density Standards**

Where NPD Districts abut a Residential District, the side and the rear setback required for a residential use in the abutting district shall apply as a minimum.

### **1318.4 Additional Regulations and Standards**

The regulations in this chapter state the development standards for the districts. Sites within overlay districts (Chapter 1319) are also subject to additional regulations. Specific uses or development types may also be subject to regulations in the City-Wide Regulations series of chapters, including but not limited to Chapters 1322 and 1325.



## 1319 OVERLAYS

### 1319.1 Waterfront Overlay

The purpose of the Waterfront Overlay District is to ensure compliance and consistency with all relevant New York State Coastal Management policies. The City's waterfront district boundaries are illustrated on Schedule 4 of this Zoning Ordinance. These maps indicate by boundary locations, each of the four waterfront zones as they relate to the zoning text. Generally, the Waterfront Overlay District encourages waterfront related uses and discourages those land uses which are neither water-dependant or water-enhanced or do not complement existing or intended uses and may contradict stated development goals. Each waterfront zone prescribes the highest and best uses for waterfront property and affords the City control through its site plan review process.

#### 1319.1.1 LaSalle Shoreline

The purpose of this sub-district shall be to provide for the optimal development of the City's waterfront for residential and commercial uses appropriate to the waterfront location. This zone shall permit only development which is compatible with the natural setting and which in turn is enhanced by the natural setting. This zone shall create incentive for new investment in this area which shall provide for the highest and best use of waterfront lands and features.

##### A. Commercial Uses:

The following additional commercial uses are permitted: public or private marinas, parks, refreshment and service buildings accessory thereto, boat landing ramps, yacht clubs, small boat construction and repair, boat rentals, and boat charters. Retail stores, limited to the following types of merchandise: marine goods including fishing supplies, sporting goods and apparel, gifts, arts and crafts, newspapers, magazines, candy, tobacco, sundries, neighborhood groceries, liquor stores, libraries, museums, art or antique galleries, art and craft studies or studios for teaching or practicing performing arts, motels, hotels, or boatels, restaurants and recreational uses accessory thereto.

##### B. Accessory Uses:

The following accessory uses shall be permitted: private docking facilities, boat ramps, boat lifts, private boat storage structures, break walls, detached decks, gazebos, porches at water's edge, and satellite earth stations.

#### 1319.1.2 Robert Moses Parkway Shoreline

The purpose of this sub-district shall be to encourage recreational use and aesthetic appreciation of this shoreline. This zone shall provide for the mitigation of negative environmental impacts created by industry in this area. The highest and best use of the shoreline proper shall be that of public space dedicated to the preservation of the natural environment with increased opportunity for residents and visitors to access and use such shoreline for active recreational activities and for

the passive appreciation of the river's natural beauty. Transitional and non-industrial uses are encouraged to integrate green structures for the purpose of access wherever possible.

#### 1319.1.3 Niagara Reservation Shoreline

The purpose of this sub-district shall be to insure that the natural environment of the rapids, cataracts, and parkland are not impaired by development in proximity to the Niagara Reservation, or within the Reservation. This zone will encourage the proper design of developments to insure that development in this area will be of such character and composition to create a pleasant and attractive urban border, which provides for historical context to the Niagara Reservation State Park.

#### 1319.1.4 Niagara Gorge Shoreline

The purpose of this sub-district shall be to preserve and enhance the waterfront as an area for recreational and tourism uses while maintaining the beauty and spectacular character of the natural setting to the maximum feasible degree. To encourage development at selected sights (as identified in the Local Waterfront Revitalization Plan) that are recreational, cultural, or tourism related that is compatible and in harmony with the surrounding environment.

- A. Adult uses are prohibited.
- B. The following additional uses are permitted: export/import retail outlets, duty free retail, souvenir and gift shops, restaurants and drinking establishments with or without entertainment, entertainment or education centers related to tourism or the environment, recreational centers with uses related to the setting such as cross country skiing, hiking suppliers, museums, and exhibit centers.

### **1319.2 Design District Overlay**

The purpose of the Design District (Refer to Schedule 2) and associated design standards is to provide supplemental regulations related to new development, conversions, and renovations within the district. These regulations are intended to provide guidance for private and public projects undertaken within the Design District in order to protect and enhance the economic viability, safety, function, and character of the area, assist in the development of a pleasant pedestrian environment and implement the City of Niagara Falls Comprehensive Plan. All applications for site plan approval within the Design District shall be subject to the requirements of these standards. Within the context of these standards, the following rules of interpretation shall apply:

- A. Words and phrases such as “shall,” “will,” “must,” “is required,” etc indicate standards to which must be specifically adhered.
- B. Words and phrases such as “should,” “is encouraged,” and “is recommended” indicate standards that are strongly desired in the context of the City of Niagara Falls’ goals and objectives for the Design District, but are not generally mandated. However, in certain circumstances, the Planning Board may determine that such standards are significant

enough to meeting the objectives of this chapter that have the equivalent authority as mandated standards.

In cases where adherence to specific standards is not feasible or warranted, the Planning Board may authorize alternate designs. Leeway from the specific standards may be authorized only where an applicant meets the overarching guideline from which the standard is based and the alternate design is approved by the Planning Board.

#### 1319.2.1 Scale And Context (1319.2.1 Does Not Apply For Downtown Districts)

Harmoniously relate development to the scale and context of existing buildings or planned development patterns in the vicinity that have a functional or visual relationship to the proposed structure(s).

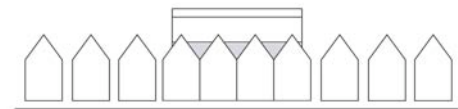
- A. Connect new buildings with the form of existing structures and the community's vision for specific areas of the city.
  - 1. Where quality "contributing" structures are adjacent to a development site, projects should reinforce massing and rhythm of adjacent buildings. If a proposed building is not adjacent to other buildings having a desirable architectural character, it may be necessary to look at contextual elements found elsewhere in the district.

- B. Minimize the visual impact of large, bulky structures on the streetscape.

- 1. Bulky, box-like structures should be broken up into sections or components related to internal or external features or adjacent structures.



- 2. Buildings greater than two stories shall provide differentiation of lower-story features through design features such as strong cornice lines, differentiation of materials, etc.



- C. Buildings should contribute to and maintain the unique character of the district they are located in.
  - 1. Buildings shall be designed specifically for their site. Repetitive or corporate "trademark" designs used in other communities or other locations of the city are discouraged if not appropriately modified in scale and context.

Top image shows inappropriate massing of large building that is out of context to setting. Lower image shows how modifying the façade creates an appropriate transition into existing setting.

### 1319.2.2 Building Layout and Placement On The Site

All projects shall strive to achieve programming and design excellence for the public realm through layout and building placement that enlivens the street. Development projects should not result in a significant adverse impact of views of major natural features and resources.

- A. Utilize building site, orientation, and placement to enhance the streetscape and public realm
  - 1. All buildings shall be oriented to the street with main entrances and windows facing a public street.
  - 2. Minimum and maximum setbacks are established for underlying zoning districts. However, in order to maintain and promote a consistent street wall, applicants are encouraged to be consistent with setback lines established by existing, desirable development patterns.
  - 3. In order to encourage a continuous building line, large breaks between buildings are discouraged.
- B. Recognizing that development may affect important vistas, site planning shall utilize creative design techniques to preserve views in whole or in part as much as possible.

### 1319.2.3 Streetscape Elements

All development shall contribute to creating and sustaining a quality urban environment that consists of continuous, walkable streetscapes lined with pedestrian oriented features and activities and shall avoid creating gaps in the urban environment presented by such features as large surface parking lots, long stretches of blank walls, and poorly defined public spaces.

- A. Utilize the following ground level use and design treatments to enhance the streetscape and contribute to the public realm.
  - 1. Landscaping in urban areas functions differently than in suburban settings where informal, fluid and soft-edged landscaping complement the lower density development. In urban settings, uncontained, soft-edged landscaping and lawn areas, particularly between the hard edges of buildings and sidewalk area are not desirable. Rather, all landscaped areas in urban areas should be well contained, utilize appropriate plant species and serve a clear purpose and function with the context of the built environment.
  - 2. Buildings should provide pedestrian accessible uses at the street level on all sides fronting a public street.
  - 3. Entries function as a transition from the street or sidewalk to the interior of building. The primary entrances should face a public street and be articulated with distinctive features.
  - 4. Street facing, ground level facades on commercial buildings shall be highly transparent and shall conform to the following requirements and prohibitions:



- a. Ground level facades shall include a minimum of 50% windows designed to make uses inside easily discernible to the passer-by.
  - b. Extensive use of reflective and highly tinted glass is prohibited.
  - c. Blank walls greater than 50' along a public street are prohibited.
- B. Signs should be architecturally compatible with the style, composition, materials, colors, and details of the building and its surroundings.
1. Signs shall be integral to the architecture of the building and appropriately scaled so as to serve their function without dominating the overall design. The size, location, design, texture, lighting, and materials of all exterior signs and advertising features should not detract from the use and enjoyment of proposed buildings or surrounding properties.

#### 1319.2.4 Additional Regulations And Standards

New development should contribute to and promote a high quality public realm including the provision of amenities for pedestrians. In the Downtown Districts, height bonuses may be available for qualifying public amenities as provided in § 1314.4 of this Zoning Ordinance.

- A. Projects greater than 10,000 square feet of gross floor area or 30 parking spaces shall include amenities for pedestrians, bicyclists or non-motorized traffic to create a pleasant city environment.
1. All projects must provide an adequate amount of the following pedestrian amenities:
- a. Street furniture such as benches, trash receptacles, telephones, water fountains, and clocks where appropriate for pedestrian use.
  - b. Safe, attractive, shaded spaces for pedestrians.
  - c. Shaded seating areas, bicycle parking, and bus shelters to encourage and enrich the public experience.

The Planning Board under Site Plan Review provisions shall determine the appropriate or “adequate” level of these amenities on a case by case basis provided, however, that nothing herein shall alter the eligibility requirements for bonuses available under § 1314.4 of this Zoning Ordinance.

- B. Utility and mechanical equipment are to be appropriately designed and carefully incorporated into the site.
1. Utility equipment must be located in a way to avoid conflict with pedestrian movement in the right-of-way.
2. Mechanical equipment shall be screened from view and located away from the street edge.

- C. Exterior lighting shall beneficially contribute to the pedestrian environment.
  - 1. The type and size of pole fixtures should be consistent along a single block.
  - 2. Lighting shall not be excessive in brightness, height, and use of color.
  - 3. Pedestrian-scaled fixtures shall be employed to illuminate the pedestrian area.
  - 4. A minimum of 1-foot candle shall be provided in all space between the building face and the curb along all streets.

#### 1319.2.5 Circulation and Connectivity

A comprehensive, functional, interconnected, multi-modal, and understandable access and circulation system for all uses is an essential component of projects within the Design District.

- A. Provide access and circulation improvements that match demand for the given project. Pedestrian movements shall be given priority over motor vehicle movements.
  - 1. Projects of over 10,000 square feet of gross floor space or 30 parking spaces must provide a pedestrian circulation plan addressing the requirements of this section for the project site and abutting public ways.
  - 2. Automobile entrances to a site shall be placed in such a way as to maximize pedestrian safety and efficient traffic circulation. Only one curb cut is allowed per street frontage (hotels may have a second curb cut to accommodate a porte coché temporary pick-up and drop-off area). Multiple curb cuts may be allowed for lots with frontage more than 150 feet only after consideration of the following factors:
    - a. The potential for a shared driveway with an adjacent use;
    - b. The number and proximity of existing curb cuts in the area;
    - c. The potential for conflict with traffic patterns, increased traffic hazards and congestion; and
    - d. The width of the street(s) serving the site.
  - 3. All developments shall provide for on-site pedestrian circulation, including:
    - a. Establishing direct links to building entrances and the internal circulation of the building
    - b. Establishing pedestrian links to any adjacent sidewalk(s) or multi-use path(s), adjacent public space, and through parking areas.
    - c. Providing convenient access for the mobility impaired
  - 4. Internal crosswalks shall be clearly marked and made highly visible.

- B. Buildings and structures shall not hinder pedestrian connectivity.
- 1. Where large structures are proposed for large areas, passageways and thru-connections for pedestrians shall be provided.

#### 1319.2.6 Parking

Parking areas shall be designed so as not to result in an unduly adverse impact upon the natural environment, the pedestrian realm, or detract from the city's beauty.

- A. Parking areas are secondary to structures and streetscape elements and shall not overwhelm or dominate a site.
- 1. Surface parking lots are prohibited between structures and the street. The recommended location for surface parking areas is in the rear yard area, below grade or in parking structures.
- 2. Rear parking lots should include provisions to allow vehicles to travel from one private parking lot to another without having to enter the street.
- 3. Shared parking arrangements between private lots and businesses are encouraged.
- B. Minimize the visual and environmental impacts of parking areas and ensure that they include features such as landscaping and walkways which contribute to a pleasant environment
- 1. All surface parking areas spaces shall incorporate trees and landscaping elements to enhance aesthetics, to provide shade, and to buffer the view of parked cars from adjacent uses and pedestrians. The following standards shall be met for all surface parking areas greater than four (4) spaces:
  - a. Surface parking areas should be shaded by large canopied trees and shall be adequately screened and buffered from adjacent uses.
  - b. Parking lot landscaping should consist of a minimum of 10% of the total parking area plus a ratio of 1 tree for each seven parking spaces to create a canopy effect.
  - c. Parking abutting an exterior yard should fit the surrounding setting and should incorporate a semi-open fence or wall into the required landscaped yard.
    - (i) Acceptable wall screening shall consist of a combination of masonry and ornamental metal fencing (e.g., wrought iron) of at least four feet and no more than six feet in height.
    - (ii) Unacceptable and prohibited methods of parking lot screening include chain link fencing other similar type of fencing.
- 2. Large areas of uninterrupted paving (100 spaces or more) are prohibited.

- a. Surface parking lots with 100 spaces or more shall be divided into separate areas and divided by landscaped areas and/or walkways at least 8 feet in width, or by a building or group of buildings.
- 3. Total impervious coverage should be minimized to the greatest extent practical. Alternative materials and designs should be used to reduce and minimize the amount of impervious surfaces and efficiently utilize urban spaces needed for vehicle parking and storage.
- C. Maintain a safe and secure pedestrian environment through the appropriate use of lighting.
  - 1. Lighting standards in parking lots shall not exceed a maximum of 25 feet in height.
  - 2. All parking lot lighting shall be glare-free and shielded from the sky and adjacent residential properties and structures through shielding or other techniques.
- D. Mitigate negative visual impacts of parking structures (ramps) to the extent practical.
  - 1. Private parking garages that are an accessory use to a commercial or mixed-use building shall be designed to be integrated to an overall building design with consistent materials and massing of the principal building use.
  - 2. Private parking garages should be sited in the rear yard and have primary access along a minor or secondary street.
  - 3. A parking garage may only be located along a major level is utilized for retail or commercial uses and the facades along the major street conform to the principles of these guidelines.
- E. Reduce the visual impact of service, loading and trash storage areas
  - 1. All service, loading and trash collection areas shall be screened by a combination of masonry or wood walls, decorative gates or planting areas.
  - 2. Loading and service areas shall not face a residential district unless no other location is possible.

#### 1319.2.7 Drive-Thru Uses

In order to protect the economic base and attractiveness of a pedestrian-friendly district, drive thru uses, where permitted within the Design District, must be sensitively designed according to the following guidelines and standards.

- A. Design drive-thru uses and features to be subordinate to other site and architectural elements of the project.
  - 1. Drive thru lanes and windows are prohibited between the building and the street.

- a. Drive-thru uses must be located to the rear or side of the structure, and shall be buffered on the rear and side lot lines.
2. Drive-thru uses shall incorporate the following:
  - a. Provide sufficient stacking area to ensure that public right-of-ways are not obstructed.
  - b. Drive-thru uses must be built as an integral architectural element of the primary structure and use. The materials must be the same as those used in the primary structure and the drive-thru facility must be under the roofline of the primary structure.

#### 1319.2.8 R4 Heritage District Design Guidelines

New structures and buildings, regardless of proposed use, shall be designed in a form that is interpretive of historic (pre 1945) structures in the heritage district.

##### A. Building Placement

Buildings should be oriented to the lot frontage of a public street to maintain a consistent street wall and pattern/rhythm of setbacks along the street.

1. Except in limited situations in campus or estate-style development (see below), the primary entrance to a principal structure shall be required to front upon a public street.
2. Campus or estate-style site arrangements (i.e., involving two (2) or more principal buildings on a single lot of record) may be permitted on lots of one (1) acre or greater in area, provided that either:
  - a. one or more of the principal structures on the campus or estate is placed along the lot frontage in accordance with front yard requirements of Section 1312.3; or
  - b. campus or estate structures are oriented inward with a landscaped forecourt along the lot frontage such that a front ornamental wall or fence is placed in accordance with front yard requirements of Section 1312.3.
3. Garage doors or entrances to parking shelters/structures shall not front upon a public street, but may front upon a public alley right-of-way.

##### B. Roof Types

Flat roofs are prohibited on buildings/structures or portions of buildings or structures that front upon or are visible from public thoroughfare.

1. Various types of sloped roof types may be used and shall be a function of the overall architectural style of the proposed structure(s). Sloped roof types that may be employed

include, but would not be limited to: gable, cross-gable, hipped, cross-hipped, gambrel, and mansard.

2. Where applicable, roofs should be consistent with the relatively steep slopes existing in the district, but no less than “7 on 12” (i.e., at least 7 inches of rise over 12 inches of run).
3. The application of surface details that imitate the appearance of a sloped roof on a flat roof structure (e.g., use of mansard roof panels on a side flat-roofed structure to imitate the appearance of a sloped roof) is prohibited.

#### C. Building Articulation

While specific architectural styles and/or interpretations may vary, new infill structures shall generally incorporate elevation features consistent with the range of elements in surrounding residentially-scaled structures.

1. Buildings should be articulated and should incorporate elevation features, which sufficiently define their bottom (i.e., foundation), middle (main building levels), and top (roof).
2. Designs should focus details on places where vertical and horizontal elements meet, such as roof peaks, the ends of the fascia boards, column capitals and bases, porch railings, and window trim.
3. Elevation features should have depth, avoiding a flush or flat appearance.
4. Building components such as porch, window, and elevation components should align with patterns exhibited along the street face to the greatest extent feasible.

#### D. Materials

Materials used in the construction and rehabilitation of structures in the district should match or be reminiscent of materials used in the highest-quality examples of residential structures in the district (Note: rehabilitation of structures on or deemed eligible for inclusion on the National Register of Historic Places may be subject to specific application of design/material standards governed by the State Historic Preservation Office / Niagara Falls Historic Preservation Commission).

1. Preferred materials for building foundations and retaining walls: rough and cut stone; rusticated masonry; and various types of high-quality concrete-based products to emulate stone or rusticated masonry finishes (e.g., cast stone).
2. Preferred materials for main building walls: painted wood clapboard; cement fiber board or wood composite materials that emulate traditional paint-able wood clapboard; brick masonry; finished/cut stone; stucco; terra cotta; and limited types of high-impact exterior insulation and finish systems (EIFS) that involve a durable, smooth trowel finish that emulate historic stucco finishes.

3. Preferred materials for building trim and detailing – painted wood, cement fiber board or wood composite materials that emulate paint-able wood, metal, finished stone, various types of high-quality concrete-based products to emulate stone or rusticated masonry finishes (e.g., cast stone), and terra cotta.
4. Preferred materials for walls and fencing along a lot frontage: painted wood picket, wrought iron, stone, masonry, and field/rubble stone.
5. Use of materials not listed above, resulting from new technological advances, may be permitted subject to Planning Board approval, provided they meet the overall objectives for the district.

E. Usable Front Porch or Portico

1. Many of the structures in the district have usable front porches; varying from modest residential designs to more monumental, classically-inspired, entry porticos on larger structures. Porches encourage interaction between neighbors, put “eyes on the street,” and introduce a distinctly urban and human scale to the district.
2. Incorporation of usable porches (at least six feet by twelve feet) is encouraged on structures fronting a public street.
3. Two-family homes or structures incorporating two levels of habitable uses (e.g., B&B, Inn) are encouraged to incorporate stacked porches, one for each level of living space. Each porch should use similar materials and details where appropriate. For example, the roofing material of the house and the porch or porches should be comparable.
4. The design of porches should be relatively transparent from the street with details consistent with the massing and materials of other structures on the street.

F. Windows & Fenestration.

Fenestration in the district generally follows a pattern that has windows placed vertically and aligned along the street face to create a consistent rhythm.

1. The windows and other major fenestration for a buildings face fronting upon a public street (i.e., with the exception of selected ornamental windows) shall generally be oriented vertically with approximately 1:2 proportions (e.g., 24 inches wide by 48 inches high) and should be placed at an elevation and with spacing that is generally consistent with the placement of windows on residentially-scaled structures elsewhere in the district.
2. Windows are encouraged to be operable, and articulated, at a minimum, as double-hung,
3. “one-over-one” panes of glass, although more detailed articulation of windowpanes (e.g., “four-over-one”, “six-over-one”, “four-over-four”, etc.) is permitted. Windows designed of large, fixed, expansions of glass or without trim are prohibited.

4. The incorporation of horizontal window fenestration may be permitted, if broken up into a grouping of individual, vertically oriented window openings, each articulated as an individual window with trim, mullions, and/or mutins.

G. Parking

1. Access to parking areas or garages shall be via public alley right-of-way, where such access is available and feasible.
2. Accessory parking garages shall be strongly encouraged to be detached and set back at least thirty (30) feet from the lot frontage. If attached, garages shall be sited in a rear yard and positioned so that garage access doors are not visible from the lot frontage.

**1319.3 Urban Renewal Areas**

Refer to Schedule 3 – Urban Renewal Areas and the specific Urban Renewal Plans and/or projects as adopted for relevant provisions and regulations, which may otherwise vary from the Zoning Ordinance.



## **1320 CITY-WIDE REGULATIONS**

The 1320-1329 series of Chapters describes the various City-wide regulations applicable to development



## **1321 DISTRICT EXCEPTIONS**

### **1321.1 Room Rental To Non-Transient Guests**

In any Residential District, the renting of rooms to not more than two non-transient guests in a dwelling by the owner thereof, as an incidental use to its occupancy as a dwelling of the character shall be permitted provided that no sign shall be displayed in connection with such renting and further provided that the owner occupies the same dwelling as a primary residence.

### **1321.2 Utility - Public**

Publicly owned and operated utilities are permitted in any district, providing that there shall be no buildings or yards used for the storage of materials or equipment in connection therewith, and further provided that prior to establishing such use or facility approval shall first be obtained from City Council.

### **1321.3 Utility - Private**

Private sector utilities or service providers including facilities and equipment incidental to the construction or maintenance thereof, exclusive of any permanent deposition of excavated or other construction debris above the prevailing grade, are permitted, on any land owned by the service provider in accordance with the following schedule:

- A. In any Residential District: Prior to establishing such use or facility, a permit shall first be obtained from City Council providing that there shall be no materials or equipment storage buildings or storage yards in connection therewith and further that all other regulations for the district shall be complied with.
- B. In any Commercial District: In addition to any use permitted in a Residential District; Central telephone exchanges, bus and rail passenger terminals and other similar uses and facilities, as determined by the Planning Office as being included in this category, provided that there shall be no materials or equipment storage buildings or yards in connection therewith and further that all other regulations shall be complied with.
- C. In any Industrial District: Any use permitted in any more restrictive District, and; Any other use not heretofore authorized and not otherwise prohibited by law or regulated by ordinance, provided that all other regulations shall be complied with.

### **1321.4 Home Occupations**

Customary home occupations or offices are permitted accessory uses in all Residential or Mixed-Use Districts provided that the home occupation or office shall be clearly incidental to the residential use of the dwelling and involve members of the immediate family residing in the dwelling unit.

- A. Home occupation or office shall not occupy more than twenty percent (20%) of the existing floor area of the dwelling unit or 500 square feet, whichever is less;
- B. Home occupation or office shall not change the exterior residential character or appearance of the dwelling in any visible manner;
- C. Home occupation or office shall not involve the storage of equipment, vehicles, materials or products outside of any building and visible from the street, or the sale of any commodity or article that is not hand-crafter on site;
- D. No parking area shall be permitted in any required front (or side) yard;
- E. No home occupation shall create noise, dust, vibration, odor, smoke, electrical interference, fire hazard, or any other nuisance that is perceptible beyond the lot lines;
- F. Home occupation or office shall in no event be deemed to include: animal hospitals, kennels, clinic or hospitals, dancing schools, mortuaries, nursery schools, clubs, auto repair, restaurants, tourist homes, rooming, housing or boarding houses, and other similar uses;
- G. Home occupation may include Family Day Care.

#### **1321.5 Telecommunications Facility - Exempt**

The following telecommunication facilities shall be permitted in all districts without a Special Permit, except within a recognized Historic District:

- A. A single ground or building mounted receive-only, non-parabolic, radio or television antenna, including any mast, in conjunction with a residential use on the same parcel where radio or television antenna is located, with a ground mounted antenna height not exceeding twenty-five feet (25'), or a building mounted antenna height not exceeding ten feet (10') from the building ridgeline;
- B. A single ground or building mounted citizens band radio antenna with a ground mounted antenna height, including any mast, not exceeding thirty-five feet (35'), or a building mounted antenna height not exceeding ten feet (10') from the building's ridgeline;
- C. A single ground, building, or tower mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, if the height (post and antenna) does not exceed thirty-five feet (35'), or which existed prior to January 1997.
- D. Mobile services providing public information or coverage of news events of a temporary nature;

- E. Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers and similar devices as determined by the Planning Office;
- F. City government owned and operated receive and/or transmit telemetry station antennas that support public safety or emergency services, or other similar use as determined by the Planning Office, with heights not exceeding seventy feet (70’);
- G. The co-location of a telecommunication facility upon a legally established facility may be considered an exempt facility and shall not require a Special Permit; however, telecommunication fees and bonding requirements as identified in Section 1328 remain applicable. A Site Plan approval shall still be required.
- H. Satellite earth stations, or parabolic antennas, are allowed as an accessory use and shall be: (1) on the ground, or; (2) situated as close to the ground as possible without compromising its function; (3) on the sides of buildings, or (4) only if 1, 2, 3, are proven to be technically infeasible by a certified professional a roof mounted installations is allowed below the ridgeline, or in the center if a flat roof structure, and in accordance with the following schedule:
  - 1. Residential Districts: Roof-mounted satellite antennas are prohibited in Residential Districts. Only one satellite antenna, per residential dwelling unit per parcel, except for residential uses definable as multi-family herein which shall be limited to two per structure, and no satellite antenna shall exceed 2 meters (78.74 inches) in diameter. Ground-mounted Satellite antennas are allowed only in rear yards, and shall be less than 12 feet in total height, and no closer than 10 feet to any rear or side lot line. Satellite antennas, regardless of size, may be restricted in number for any single parcel if additional antennas are deemed to create an adverse visual impact.
  - 2. Commercial Districts: Any roof-mounted satellite earth station larger than 2 meters in diameter shall require stamped drawings indicating wind load imposed, roof structure design, or redesign of roof structure to carry added wind/weight load approved by the Director of Inspections and no satellite antenna shall exceed 10 feet in diameter. In Commercial Districts, ground-mounted satellite earth stations may not be placed more than 25 feet above grade, and shall be subject to Chapter 1322. Satellite antennas, regardless of size, may be restricted in number for any single parcel if additional antennas are deemed to create an adverse visual impact.
  - 3. Industrial Districts: Satellite earth stations, more than 2 meters and less than 10 meters are permitted with a Special Permit providing all other district requirements are met.

### **1321.6 Projections - Height**

Architectural towers, gables, penthouses, scenery lofts, cupolas, necessary mechanical appurtenances and similar structures, may be erected on a building to a height greater than the limit established for the district in which the building is located; provided that such exception shall cover at most 50 percent of the floor area directly below; provided, further, that no such

exceptions shall be used for any commercial purpose other than those incidental to the permitted primary use of the main building.

The height limitations of this Zoning Ordinance shall not apply to public utility facilities, chimneys in industrial districts, church spires, flag poles on public property, monuments, or electric transmission towers.

#### **1321.7 Projections – Side, Rear, Front Yard**

The following features may extend into any required front, side or rear yard without crossing the property lot line and not to exceed the distances specified:

- A. Cornices, canopies, eaves, or any similar features, none of which is less than 10 feet above grade: 2 feet, 6 inches
- B. Open fire escapes: 6 feet
- C. Chimneys: 2 feet

#### **1321.8 Projections – Porches**

Any terrace or unenclosed porch in a Residential District may extend into the required front yard a distance not to exceed 8 feet, but in no event nearer than 50% of the front yard setback of the lot, and may be roofed or otherwise covered but shall have no enclosure of any part of the sides thereof that extend into the front yard that is higher than 2 feet 6 inches. All horizontal distances shall be measured to the foundation line of such terrace or porch, provided, however, that a roof overhang may extend not more than 1 foot beyond the foregoing permitted extension.

In Residential Districts, no porch, terrace, or outside stairway shall project more than four feet (4') into any side yard nor closer than three feet (3') to any side lot line, and any outside stairway may extend into any side yard only if the same is unroofed and unenclosed above and below the steps thereof.

#### **1321.9 Corner Lot Sight Triangle**

On corner lots no fences, signage, hedge, wall, retaining wall, structure, or landscaping display shall be permitted over forty inches (48") above the adjacent sidewalk, or if none, the adjacent street within the restricted sight triangle. The restricted sight triangle shall measure twenty feet (20') in both directions as measured from the intersection of the two streets.

#### **1321.10 Accessory Buildings**

##### **1321.10.1 Accessory Buildings in Residential Districts**

Nothing in this Zoning Ordinance shall be deemed to prohibit accessory and incidental uses that shall adhere to the following standards:

- A. Accessory buildings located other than in a rear yard shall comply in all respects with the requirements of this Zoning Ordinance applicable to main buildings.
- B. No accessory building shall be located nearer than two feet (2') to any side or rear lot line.
- C. An accessory building that is attached to a main building shall be deemed to be a part thereof and shall comply in all respects with the requirements of this Zoning Ordinance applicable thereto with the exception of those accessory buildings that are attached to a main building by a breezeway or covered passageway with open or latticed sides. Such accessory structure shall be located no nearer than four feet (4') to the primary building.
- D. An accessory building, detached or attached to a main building in no other manner than by a breezeway or a covered passageway with open or latticed sides, and not exceeding a height of one one-story and in the case of a flat roof a height of twelve feet (12') or in the case of a roof of any other type, a height of sixteen feet (16') with side walls not exceeding ten feet (10') in height, may occupy not to exceed thirty percent (30%) of the area of any required rear yard.
- E. No accessory building on a corner lot, with vehicular access from the side street, shall be located nearer to the side street line thereof than a distance which shall be not less than the required side yard setback.
- F. When the rear yard on a corner lot adjoins the front yard of a lot to the rear, no accessory building on such corner lot shall be located nearer to the street line of the street on which the lot to the rear faces than a distance equal to the depth of front yard required on such lot to the rear, provided that this regulation shall not be applied so as to require that the line of such accessory building that faces toward such street and is nearest thereto shall be nearer to the lot line opposite such street than a distance of twenty-five feet (25').
- G. No door of any accessory building or improvement, except a fence which door opens into an alley, shall be erected, constructed, or established nearer to the center of such alley than a distance of fifteen feet (15'). Accessory garage shall not exceed 525 square feet in total.

#### 1321.10.2 Accessory Uses Permitted In Open Space District

Customary recreational, refreshment and service uses, and buildings in any public park, reservation, playground, or other recreational area, incidental to the recreational use of such area.

#### **1321.11 Fence in Residential District**

The yard requirements of this Zoning Ordinance shall not be deemed to prohibit any necessary retaining wall, not prohibit any otherwise lawful fence or wall, provided that in any R District no fence or wall shall exceed four feet (4') in height in any front yard or six feet (6') in height in any rear or side yard unless otherwise authorized by the Planning Board and/or Zoning Board of Appeals.

## **1321.12 Sidewalk Patio Requirements**

### **1321.12.1 Outdoor Patio On Private Property**

- A. Outdoor patios shall not block access to Fire Department connections, sewers, water works, gas valves or doors.
- B. Outdoor patios shall be marked off by means of planters or railings that have an “Open” appearance; the minimum height allowed is 18” and the maximum is 30.”
- C. Advertising in outdoor patios shall be regulated as signage under Chapter 1121.
- D. All outdoor dining furniture, including tables, chairs, umbrellas and planters in outdoor patios shall be stored indoors during winter season.
- E. Outside storage of materials/equipment shall be maintained clutter free, secure and screened, as necessary.

### **1321.12.2 Outdoor Patio Within Public Right-Of-Way**

In addition to all requirements for Outdoor Patios on Private Property, the outdoor patio shall:

- A. directly abut the business face or curb line so patrons and servers do not interrupt the flow of sidewalk pedestrian traffic; and be adjacent to the business property;
- B. leave sufficient unobstructed sidewalk width (minimum four feet (4’) wide) for pedestrians access;
- C. have a mandatory closing of 12:00 am (midnight);
- D. be constructed so that it can be completely removed with 48 hours, if required;
- E. decks, platforms and structures are not permitted except to level a significant grade difference in the sidewalk or to harmonize indoor and outdoor seating levels; any deck must be wheelchair accessible;
- F. obtain a liquor license extension if liquor is to be served in the sidewalk patio;
- G. enter into an encroachment agreement with the City, renewable on an annual basis.



## **1322 LANDSCAPING, SCREENING AND BUFFER REGULATIONS**

### **1322.1 Purpose**

The purpose of the following standards are to enhance the appearance and natural beauty of the City, to improve the overall environmental quality, aid in pollution control, and to protect and preserve the appearance, character and property value of surrounding neighborhoods, thereby promoting the general welfare by providing for installation and maintenance of landscaping for screening and aesthetic qualities. Specifically, these standards are intended to reduce excessive heat, glare, or dust; to provide privacy from the noise and visual intrusion of unlike or incompatible uses; to prevent the erosion of soil, excessive run-off and drainage and the pollution of water bodies; to aid in oxygen production.

### **1322.2 Applicability**

This section applies to any application for site plan approval by the Planning Board.

### **1322.3 Planning Board Discretion**

The Planning Board may waive any requirement of this section when existing vegetation, topography or other features already ensure proper landscape treatment or where lot size and shape or existing structures make it unfeasible to comply with the requirements of this section. The Planning Board shall base its decision on a landscaping plan submitted by the applicant designed by a certified landscape architect.

### **1322.4 General Requirements**

The following provisions shall apply to all uses in all Zoning Districts:

- A. Landscaping, trees, and plants required by these regulations shall be planted in a growing condition according to accepted horticultural practices and they shall be maintained in a healthy growing condition. Any landscaping, trees and plants which are in a condition that does not fulfill the intent of these regulations shall be replaced by the property owner during the next planting season for the particular plant material.
- B. All landscaping, trees and planting material adjacent to parking areas, loading areas, or driveways shall be properly protected by barriers, curbs, or other means from damage by vehicles, and excessive run-off or improper drainage.
- C. To the extent possible, existing trees, vegetation, and unique site features shall be retained and protected. Existing healthy, mature trees, if properly located, shall be fully credited against the requirements of these regulations.
- D. The selection of plant varieties shall be based on regional climatic conditions, constraints of location, effectiveness in screening adjacent properties (where appropriate), resistance to disease and insect attack, cleanliness and ease of maintenance.

- E. The following plant sizes are the minimum required at time of installation. However, the Planning Board may require larger material to address particular site issues.
  - 1. Deciduous shrubs: 24" spread or height
  - 2. Evergreen shrubs: 18" spread or height
  - 3. Coniferous trees: 6' height
  - 4. Ornamental and under story trees: 1.25" caliper
  - 5. Deciduous shade trees: 2.5" caliper
  - 6. Ground cover: 2.5" pot (or similar size if not provided in pots) and planted at the recommended spacing for plant species used.

### **1322.5 Landscaped Yard Requirements**

Landscaping may include a mix of tree species for the total number of required trees and determined as follows:

- A. There shall be one (1) shade tree per fifty (50) linear feet of frontage along public streets. These shade trees shall be located along the street frontage or in the right-of-way at regularly spaced intervals.
- B. Ground cover: suitable ground cover shall be provided in the front yard area in all zones except where no front yard is required.
- C. All newly planted trees shall be planted in a permeable area of no less than a three-foot-wide radius from the base of the tree, or in an appropriate median strip not less than 5' wide.

### **1322.6 Screening And Buffer**

- A. Screening and buffers are required for any lot or use in any industrial or commercial district that abuts a residential district or open space district. In addition, Structures, pavement, utility construction, signage and similar improvements shall not be permitted to encroach on any buffer unless specifically permitted by the Planning Board.

- B. The required buffer is intended to be landscaped and improved in order to provide effective visual screening on a year-round basis. Buffers shall employ existing vegetation, or nursery stock, or both, as well as fences, walls, earth berms, or grade changes in accordance with these standards.

Zoning district adjacent to residential	Minimum width of buffer area	Number of trees per 100 linear feet	Approximate number of shrubs per 100 linear feet
Traditional Commercial, Neighborhood Commercial, Downtown	10'	4	20
General Commercial	20'	5	20
Industrial	30'	6	20

- C. Screening: Other screening and buffering shall be provided as follows:

1. Refuse Container Screen: Refuse containers or disposal areas shall be screened from view by placement of a solid wood fence or masonry wall at least as tall as the refuse containers, but no less than 5 feet in height. All refuse materials shall be contained within the refuse area (Refer also to Chapter 738.08 of the Codified Ordinances).
2. Service Corridor Screen: When adjacent to residential uses, commercial and industrial service corridors shall be screened. Siting and design of such service areas shall reduce the adverse effects of noise, odor and visual clutter upon adjacent residential uses.
3. Mechanical Equipment Screen: All mechanical equipment shall be screened from any public right-of-way or adjacent to residential use or district.
4. Outdoor Storage: All outside storage shall be screened from view with fencing and/or landscaping. This requirement may be waived for industrial zoned properties not adjacent to commercial or residential uses.

### **1322.7 Surface Parking Lots**

This section applies to any parking areas that include more than ten (10) spaces.

- A. General Requirements

1. Parking medians, islands, and strips shall be curbed for proper traffic control and safety.
2. Corner clearance and sightlines shall be observed regarding all landscaping or buffers/screens.

3. All trees and other vegetation within the parking lot landscaped areas are subject to the maintenance requirements of this section.
- B. Perimeter Landscaping
1. A minimum five-foot buffer strip abutting a public right-of-way shall be landscaped. This requirement does not apply to areas within required driveway or other access points.
  2. Landscaping shall be required along all sides of a parking lot or paved drive that abuts adjoining property of public right-of-way.
  3. The perimeter landscape buffer along a sidewalk or pedestrian way shall consist of planting materials and/or structural features to create a minimum four (4) foot high visual relief screen in the form of a hedge, fence, planter box, berm, dividers, shrubbery, or trees, or a combination thereof. All landscaping to form such visual relief shall create a two-foot-tall minimum screening at planting.
- C. Interior Landscaping
1. Individual parking aisles shall not contain more than twenty-five (25) spaces in a row unless a planted median and island are installed.
  2. Where a series of ten (10) or more parking aisles in a row are proposed, a planted median and island shall be provided.

### **1322.8 Maintenance**

Maintenance of landscaping: The owner, tenant, or agent, if any, shall be responsible for providing, protecting, and maintaining all landscaping in healthy and growing conditions, replacing it when necessary to ensure continuous conformance with these guidelines and keeping it free from refuse and debris. All newly planted vegetative material shall be guaranteed to meet minimum American Standard for nursery Stock standards at the time of planting and for one (1) year thereafter.

Required landscaped areas shall be routinely maintained free of debris and litter and in good condition, with regular mowing of grass, so as to present a neat, healthy and orderly appearance. Maintenance shall include the replacement of all dead plant material.

## **1323 SUBDIVISIONS / AMALGAMATION**

### **1323.1 General Provisions**

To encourage the appropriate development of parcels of land which are currently vacant or underutilized.

#### **1323.1.1 Amalgamation Required**

Unless otherwise approved by the Planning Board or where this ordinance provides an exception, all development sites containing more than one parcel shall be amalgamated into a single lot/SBL number, pursuant to regulations, prior to filing for a building permit.

#### **1323.1.2 Lots To Comply With Zoning**

Where a lot is hereafter formed from the part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this Zoning Ordinance with respect to the existing building and all yards and other open spaces in connection therewith, and no permit shall be issued for the erection of a building on the new lot thus created unless it complies with all the provisions of this Zoning Ordinance.

#### **1323.1.3 Site and Structure Requirements**

- A. The right-of-way and pavements widths for internal roads serving all development shall be adequate and sufficient in size, location, and design to accommodate the maximum traffic, parking and loading needs and the access of fire fighting equipment and police or emergency vehicles. The pavement of said roads shall be not less than 24 feet wide and shall be subject to all other applicable City ordinances and standards.
- B. The developer shall provide all necessary water and sewer facilities, storm drainage, highway access, paved service streets, parking and loading facilities, and off-street lighting, making reasonable provision for utility service connections with adjoining properties in other ownership.
- C. Where such features exist, it shall be the City's policy to preserve and incorporate into the landscaping the development of natural features, such as streams, rock outcrops, trees, and shrubs. All trees with a diameter of 8 inches or more, measured 3 feet from the base of the tree, shall be preserved to the fullest extent possible, consistent with good design, engineering and reasonable development of the site.
- D. All electric, telephone, cable TV, and similar equipment shall be installed underground in accordance with all New York State regulations.

#### 1323.1.4      Shopping Centers

The Planning Board is authorized to review subdivisions for Shopping Centers pursuant to the procedures set forth in Article 3 of the New York State General City Law. Retail stores may be arranged into Shopping Centers, with or without separate ownership of individual stores. So long as proper provision is made, the retail shopping center may include shared or common drainage, water supply, sewerage, signage, off-street parking, landscaping, cross-lot access easements to abutting properties and ingress and egress to all lots, blocks or sites within the retail shopping center. Proper provision may include, but is not limited to, common or shared access, parking, signage and utilities as evidenced by reciprocal or other easement agreements, leases, condominium documents or similar arrangements for common or shared rights among tenants, owners or occupants of the retail shopping center. So long as proper provision is made as set forth above, off-street parking and loading (Chapter 1325) and landscaping (Chapter 1322) may be shared or in common. So long as proper provision is made as set forth above, one shared or common pole sign with the names of each of the individual stores or establishments shall be allowed.

## **1324 SITE PLAN REVIEW**

### **1324.1 Purpose**

The site plan review process recognizes that some developments and uses, even though generally suitable for location in a particular district are, because of their design, character, nature, size, complexity or other indicia of probable impact, capable of adversely affecting the goals for which this Zoning Ordinance is established unless careful consideration has been given to critical design elements. It is the purpose of this section to provide a vehicle for the review of the applicant's attention to such elements.

The site plan review requirements herein are designed to foster and maintain attractive, high quality, sustainable places in which people will want to live, work and relax in accordance with the purposes and intent of the Comprehensive Plan. In addition, the site plan review process prescribed hereunder is intended to ensure consistent application of superior land development and design standards in furtherance of the city's comprehensive planning efforts generally, and to provide for the safe and efficient movement of traffic; enhanced land use compatibility; and the protection of the public health, safety, environment and general welfare.

Nothing herein shall relieve a project applicant from complying with applicable building permit or other approval requirements. The receipt of site plan approval shall not relieve the applicant from any other provisions of this Zoning Ordinance, nor shall such approval constitute a recommendation for approval of any subsequent approval or other relief that the applicant may thereafter seek from the Zoning Board of Appeals.

### **1324.2 Basic Requirements**

Except as otherwise provided herein, site plan review shall be required for any development or redevelopment that includes construction, enlargement or addition to any building or site preparation or use that does not include or require a building. Site plan review shall not be required for "Level 1" projects identified below or for projects involving no site or external alterations or for accessory structures not changing land use or density.

To be eligible for site plan review, the applicant must be the owner or agent as designated by the owner, lessee or purchaser under contract for the involved parcel. An agent, lessee or purchaser under contract must obtain and submit with its application for site plan review the written permission of the current property owners to submit such application.

Where a proposed site plan contains one or more features which do not comply with the dimensional requirements of this Zoning Ordinance, application can be made to the Board of Appeals for an area variance.

### **1324.3 Pre-Application Conference Procedures**

A pre-application conference with the Director of Planning or his designee is recommended for all potential site plan review applications. Where a conference is scheduled, the applicant shall

submit to the Director of Planning or his designee two (2) copies of a sketch plan of the proposed improvements seven (7) days prior to that conference. Upon completion of the conference, the Director of Planning or his designee shall provide the applicant with a signed copy of the application form as proof of participation.

#### **1324.4 Site Plan Submission Requirements**

This section details the procedures and submission requirements for review of proposed projects, which shall be subject to different levels of scrutiny designated as "Level 1" and "Level 2" reviews depending upon the nature and scope of the proposed development. This two-track review system is established to provide the City, community, and applicant with the appropriate level of review and public comment for each type of project and to facilitate the timely administration of site plan applications in a manner that is protective of the public health, safety and welfare.

#### **SUMMARY AND COMPARISON OF LEVEL 1 AND LEVEL 2 REVIEWS**

The following chart is provided for illustrative purposes only, and is subject to the more detailed requirements set forth in this § 1324:

	LEVEL 1 REVIEW	LEVEL 2 REVIEW
Sample Project Types	Minor projects such as small improvements and expansions falling below specified use and dimensional thresholds	Significant projects such as multi-family housing and improvements within the Design Review District that fall above specified use and dimensional thresholds
General Submission Requirements	Letter of intent, basic site plan, SEQRA short form.	Application form, project description, site plan, SEQRA short form and applicable fees
Pre-application Conference	Optional	Recommended
Review and Decision	Director of Planning or his designee - no site plan review required	Planning Board with recommendation report from Director of Planning or his designee
Hearings	No Public Hearings	Public Hearing mandatory for proposed commercial development adjacent to a residential zoning district otherwise at discretion of Planning Board



#### 1324.4.1 Level 1 Review

Certain types of actions as specified herein are considered to raise comparatively minor planning and design considerations and shall not require site plan review. Such actions shall be subject to a streamlined review by the Director of Planning or his designee unless otherwise specified.

A. Actions subject to Level 1 Review Procedure:

The City Council acknowledges that certain proposed projects do not warrant site plan review, and therefore authorizes the Director of Planning or his designee to review and approve, approve with modifications, or disapprove projects meeting the below criteria for Level 1 review. However, the Director of Planning or his designee is also authorized to refer any such proposed projects to the Planning Board for a Level 2 site plan Review if such project falls within the Design District designated under section 1319.2 or other Overlay District designated under section 1319.1 of this Zoning Ordinance; if such projects otherwise meet a specified Level 2 criterion; or if the Director of Planning or his designee determines that a Level 2 review would be useful and appropriate to further the purposes and intent of this Zoning Ordinance or otherwise serve the public interest.

No site plan review is necessary, and a level 1 review may be conducted for, any project that meets any of the below criteria, unless that project also meets a specified Level 2 criterion specified in section 1324.4.2 (A) of this Zoning Ordinance.

1. Single-family and two-family homes within Design Districts and the Waterfront Overlay District only - (all other single and two-family homes and their accessory structures are exempt from review under this Section 1324).
2. All other structures, buildings or improvements below the following thresholds:
  - a. Residential uses with a gross floor area less than or equal to 1,000 square feet
  - b. Non-residential uses with a gross floor area less than or equal to 2,500 square feet
3. Amendments to previously approved site plans may be approved by the Director of Planning or his designee if it is determined there is no change in the use and intensity of such use from the previously approved site plan.
4. Minor modifications of existing wireless telecommunications facilities, whether emergency or routine, provided there is little or no change in the visual appearance of the wireless telecommunications facility. Minor modifications are those modifications, to conforming attached wireless communications facilities that meet the application requirements and performance standards contained herein, including the addition or co-location of antennas and accessory equipment.
5. Any proposed improvements in the Waterfront Overlay District which would affect existing sight lines to the river or shoreline usage, and do not exceed the aforementioned square footage thresholds. The term "improvements" as used herein shall include, but not be limited to, parking spaces and structures, tennis courts, boat docks and storage

structures, fencing, the planting of four or more trees or large shrubs, gazebos, pools, decks, signs, and other ancillary structures.

B. Level 1 Submission requirements:

1. A Letter of Intent signed by the applicant which identifies the project location and project scope with information sufficient to determine eligibility for Level 1 review.
2. Site plan or project shown at sufficient scale and level of detail to enable the Director of Planning or his designee to ascertain and understand the location and dimensions of existing and proposed structures and improvements.
3. Photographs of the subject property.
4. Payment of applicable fees.
5. Environmental review: All Level 1 submissions shall include all documentation required under Article 8 of the Environmental Conservation Law, implementing regulations at 6 N.Y.C.R.R. Part 617 and Chapter 1326 of this Zoning Ordinance.

C. Level 1 Review:

1. Certification of Zoning Compliance

The Director of Planning or his designee shall certify whether or not the submission is complete and in conformance with the requirements of this Zoning Ordinance. Applications which do not conform to all submission requirements will not be considered by the Director of Planning or his designee.

2. Referral

Where applicable, the Director of Planning or his designee shall refer a Level 1 project application and SEQRA documentation to the Niagara County Department of Planning in accordance with section 239-m of the General Municipal Law and to any involved agencies as may be appropriate under SEQRA and other applicable local, state or federal law.

3. Decision

The Director of Planning or his designee shall render a decision on a Level 1 application within ten (10) days after the Level 1 application is determined to be complete.

1324.4.2      Level 2 Review

A. Actions subject to Level 2 Review Procedure.

The City Council authorizes the Planning Board to review and approve, approve with modifications, or disapprove site plan applications meeting the criteria for Level 2 review.

The Level 2 review criteria are as follows:

1. All actions that exceed Level 1 thresholds for gross floor area or that are otherwise not in conformance with the Level 1 criteria set forth in section 1324.4.1(A) of this Zoning Ordinance.
2. All structures, buildings or improvements within the Design District designated under section 1319.2 of this Zoning Ordinance or other Overlay District designated under section 1319.1 of this Zoning Ordinance that exceed Level 1 criteria set forth in section 1324.4.1(A) of this Zoning Ordinance.
3. Any change in use or intensity of use to an approved site plan which will affect the characteristics of the site in terms of parking, loading, access, drainage, utilities, traffic, or other environmental impact for any commercial, industrial or multi-family use.
4. Any proposed use or structure in a flood hazard area as identified by FEMA.
5. Any action (requiring Planning Board approval) involving or impacting an Historic landmark as defined in Section 1303.2.8 of this Zoning Ordinance.

B. Level 2 Site Plan Submission Requirements

1. Twelve copies of a completed City site plan application form bearing: an accurate legal description, tax account number(s) and location of the property; the name, address, and telephone number of the applicant; the name and addresses of all property owners if other than the applicant; the signature of the property owner(s), and the nature of the applicant's interest in the property.
2. Twelve copies of a written statement that includes the following:
  - a. A complete list of all approvals being sought
  - b. A complete description of the proposal including existing and proposed use(s) or physical change(s)
  - c. A description of how all approval criteria for the zoning review(s) are met (this may be placed on the site plan). For example, the applicant shall include the minimum and maximum site requirements such as lot size, setbacks, or FAR and how the project conforms to these requirements
  - d. If applicable, a request for one or more FAR bonuses along with all information necessary to determine FAR bonus eligibility under section 1314.4.1 of this Zoning Ordinance.
  - e. Any additional information requested by the Planning Board and/or Director of Planning that is reasonably necessary for them to understand the proposal and determine its compliance with the requirements, purposes and intent of this Zoning Ordinance.

3. Twelve copies of a site or development plan. All plans shall be prepared by a New York State licensed professional engineer, landscape architect, or architect unless waived by the Planning Board. The Planning Board Chair or Director of Planning or his designee has the right to reject any application submitted if it fails to meet the minimum submittal requirements. The site or development plan must be drawn accurately to scale and must show the following existing and proposed information:
- a. All property lines with dimensions and total lot area
  - b. North arrow and scale of drawing
  - c. Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes
  - d. Existing natural features such as watercourses including the ordinary high water line and top of bank
  - e. Existing and proposed contours or grades
  - f. All trees greater than six (6) inches in diameter, measured five (5) feet above ground, in areas to be disturbed
  - g. Easements and on-site utilities
  - h. Existing and proposed development with all dimensions
  - i. Building elevations showing all sides of proposed structures including color and type of materials
  - j. Location of adjacent buildings
  - k. Distances of all existing and proposed development to property lines
  - l. Landscaping plan including types and location of vegetation, street trees, screening, fencing, and building materials including fences and walls
  - m. Percentage of the site proposed for building coverage, and landscaping coverage
  - n. Existing and proposed type and location of exterior light standards and fixtures
  - o. Location and dimension of signage
  - p. Motor vehicle and bicycle parking areas including design, number of spaces, driving lanes, and loading areas
  - q. Drainage features including proposed storm water runoff facilities and sewer and water facilities and connections

- r. Timeline indicating anticipated construction start and completion dates. The Planning Board may require a re-submission of the site plan if there is significant deviation from this timeline as determined by the Planning Board
- s. Any additional requirements of the plan review as required by the Planning Board
- t. Site photographs of existing conditions
- u. All applicable filing fees
- v. Environmental Review: All level 2 submissions shall be accompanied by a short or full EAF, or a draft EIS, as required by Article 8 of the New York State Environmental Conservation and implementing regulations at 6 N.Y.C.R.R. Part 617, and section 1326 of this Zoning Ordinance.

## C. Level 2 Procedures

### 1. Referral of Complete Application.

Upon receipt of a properly completed application as described herein, the Director of Planning or his designee shall determine whether or not the proposed use conforms to the requirements of this chapter. If such use conforms to the Zoning Ordinance, the Director of Planning or his designee shall refer copies of the application as follows:

- a. To the Planning Board and other appropriate City, county and state officials, departments and agencies for their review and comment at least fifteen (15) days prior to the next regularly scheduled meeting of the Planning Board.
- b. Where applicable, the Director of Planning or his designee shall refer the site plan application and SEQRA documentation to the Niagara County Department of Planning in accordance with section 239-m of the General Municipal Law and to any involved agencies as may be appropriate under SEQRA and other applicable local, state or federal law.
- c. The Director of Planning or his designee shall, where possible, submit any and all agency comments and recommendations to the Planning Board and the applicant at least five (5) days in advance of the Planning Board meeting or hearing at which it will be considered.

### 2. Public Hearing

The Planning Board may, in its sole discretion, determine that a Public Hearing for any Site Plan Review is necessary and appropriate to meet the purposes and intent of this Zoning Ordinance provided, however, that a public hearing shall be mandatory whenever a commercial site plan development abuts a residential zoning district. When utilized, public hearings shall be held within sixty-two days of the official submission date of the application, and public notice shall be given within at least ten days prior to the date of such hearing by publication in the official City newspaper.

3. Notice to Adjacent Property Owners.

At least ten days prior to any public hearing on a site plan application, the Planning Board shall serve or cause to be served via regular US mail written notice of the nature of the site plan application and the time and place of such hearing to, at a minimum, all owners of property adjacent to or abutting the project site.

4. Planning Board Review and Decision

Within 62 days of the date of the close of the public hearing, or where a public hearing is not held on the application, within 62 days of tabling action by the Planning Board site plan application, the Planning Board shall act to approve, disapprove or approve with modifications the proposed site plan application, unless such time limit has been extended by mutual agreement between the Planning Board and the applicant.

5. SEQRA Compliance.

The Planning Board shall comply with all applicable provisions of the State Environmental Quality Review Act and Chapter 1326 of this Zoning Ordinance before rendering a final determination on any variance or Special Permit applications.

D. Standards for site development plan approval:

The Planning Board shall not approve a site plan unless it shall find that such plan conforms to the requirements of this chapter as well as to other applicable laws and regulations and is properly supportive to the policies and recommendations of the City's Comprehensive Plan. In reviewing the site plan, the Planning Board shall also take into consideration the public health, safety and general welfare and shall set appropriate conditions and safeguards which are in harmony with the general purpose and intent of this Ordinance, particularly in regard to achieving the following standards:

1. Traffic access

The number, location and design of all proposed driveways, in terms of their width, length, grade, alignment, visibility and relationship to the street system and neighboring properties and land uses, shall be such that maximum safety and function will be achieved.

2. Traffic

The effect of the proposed development on traffic conditions on existing streets.

3. Pedestrian circulation

An adequate and safe pedestrian circulation system shall be provided to permit safe access to uses on the site from the street and from all parking areas, including consideration of the location, arrangement and adequacy of facilities for the physically handicapped, such as ramps, depressed curbs and reserved parking spaces.

4. Landscaping and buffering

All parking, loading and service areas shall be screened in a reasonable manner at all seasons of the year from the view of adjacent residential lots and streets. The general landscaping of the site shall be designed in an attractive manner and, wherever possible, desirable natural features existing on the site shall be protected and retained.

5. Lighting

Outdoor lighting shall be provided on the site to assure the safe movement of vehicles and persons and for security purposes. Such lighting shall be properly designed and shielded so as to avoid glare, prevent visibility of the source of the light from areas off site and other undesirable impacts on neighboring properties and streets.

6. Protection of natural and cultural resources

The Planning Board shall endeavor to adequately protect any resources of local, state and/or national significance.

7. Drainage

The proposed storm water drainage system shall be adequate to properly drain the site, maximize groundwater recharge, prevent downstream flooding and prevent the degradation of water quality.

8. Water and sewage

The proposed systems for water supply and sewage disposal shall be adequate to serve the needs of all proposed uses on the site without adversely impacting off-site facilities, neighboring properties or uses.

9. Solid waste

Adequate provisions shall be made for the storage, collection, recycling and disposal of solid waste. Such facilities shall not be permitted to adversely affect neighboring properties or public facilities.

10. Building design

The height, location and size of the proposed buildings shall be in conformity with the requirements of this zoning ordinance. All such buildings, utilities and other structures shall harmoniously relate to each other, the site and neighboring properties.

11. Signage

All proposed signs, including on-site directional signs and building signs, shall meet the requirements of the Niagara Falls Sign Ordinance and shall be in harmony with the design of the

site and buildings and with neighboring properties.

12. Other public needs

The Planning Board shall assure that other public needs, including but not limited to the provision of recreational facilities and open space, as well as other needed services, are adequately and properly met.

13. Services and public utilities.

Adequate services and public utilities will be available prior to occupancy.

E. Recommendations of City Departments

The Planning Board shall consider the recommendation of appropriate City Departments as to whether the proposed site plan will conform to the intent and requirements of this Zoning Ordinance and may utilize the expertise of designated consultants for additional review.

**1324.5 Reimbursable Costs**

Reasonable costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a level 2 site plan shall be charged to the applicant. Such reimbursable costs shall be in addition to application fees

**1324.6 Building Permit**

No building permit may be issued for any building within the purview of this section until the original or amended Site Plan is approved by the Planning Board or its designee as authorized herein and all conditions satisfied in accordance with the requirements of 1301.10(F) of this Zoning Ordinance.

**1324.7 Performance Bond, Other Security**

No certificate of occupancy shall be issued until all improvements shown on an approved site plan are installed including, but not limited to, parking areas, landscaping, fencing and exterior lighting, and all related conditions imposed by the Planning Board are met, or a sufficient performance guarantee has been posted in accordance with Section 1301.10 of this Zoning Ordinance. The applicant shall provide evidence that all site work has been completed satisfactorily in order to seek reimbursement for the work covered by the performance guarantee.

**1324.8 Enforcement and Inspection of Improvements**

Development projects may be periodically reviewed for conformance to the approved site plan, including such required site improvements as landscaping, signage, vehicular circulation, conditions of approval etc. If there is nonconformance, or if any conditions of the site plan review approval are not fulfilled; current owners of the development shall be notified, in writing,



and given the opportunity to correct the situation in accordance with Section 1301.10 of this Zoning Ordinance.

#### **1324.9 As-Built Survey**

Upon completion of site improvements pursuant to an approved site plan, the applicant shall provide proof thereof and may be required to submit to the Director of Planning or his designee an as-built plan prepared and certified by a licensed engineer, architect or surveyor showing the location of all site improvements as constructed. The Director of Planning or his designee shall then issue or cause to be issued a Site Plan Compliance Letter certifying that all improvements and conditions have been satisfactorily completed.

#### **1324.10 Integration Of Procedures**

The Planning Board shall, to the extent practicable and lawful, coordinate the site plan review procedures herein with other applicable approval procedures arising under this Zoning Ordinance or other City, state or federal law including, without limitation, the State Environmental Quality Review Act. Such coordination may require, upon mutual written consent of the Planning Board and the applicant, reasonable modification of the time schedules otherwise stated in this chapter or in said regulations or requirements.

#### **1324.11 Expiration Of Approval**

Site Plan approval shall expire or become void in the event that:

- A. Unless otherwise extended or reduced by the Planning Board, applicants fail to obtain a permit and a certificate of occupancy and/or construction is not substantially complete in connection with any approval within twelve (18) months from the date of approval.
- B. Construction elements are not consistent with approved site plan elements.

A request to extend a site plan approval duly obtained shall be made in writing to the Planning Board prior to its expiration. The Planning Board may extend all time limits for good cause shown, if it deems such extension warranted. However, the Planning Board shall not extend a site plan approval for more than three years from the date of its original approval.



## **1325 PARKING AND LOADING**

### **1325.1 Intent**

It is the intent of this subpart to:

- A. Ensure there are adequate parking and loading facilities to serve the use or uses of the property;
- B. Ensure that any parking facility is so designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjoining properties from nuisance caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles parking off the street, and
- C. Reduce congestion in the streets and contribute to traffic safety.

### **1325.2 Parking And Loading Provisions**

No structure shall be erected, altered or established unless or until the provisions of this subpart pertaining to parking and loading have been met.

### **1325.3 Existing Structures**

Any structure or land use lawfully in existence prior to the adoption of this ordinance shall not be subject to the requirements of this subpart so long as the kind or extent of use is not changed.

### **1325.4 Change Or Expansion of Use**

Whenever there is an alteration or conversion of a structure or a change or expansion of a use which increases the parking requirements, the total additional parking requirements for the alteration, conversion, change, or expansion shall be provided in accordance with the requirements of this subpart, except as provided below. A waiver may be requested in accordance with Section 1325.12 below.

### **1325.5 Neighborhood and Traditional Commercial Districts Existing Commercial Structure Exemption**

Any nonresidential use in any Neighborhood or Traditional Commercial District proposed for an existing structure where ten (10) spaces or less, would be required for the proposed use, is exempt from providing those spaces.

### **1325.6 Parking Districts**

For purposes of this subpart, the following zoning districts are grouped into the following categories (refer to 1325.7):

- A. Suburban: All other districts not specifically identified as Urban or Downtown
- B. Urban: R1-D, R2-A, R2-B, R3-B, R3-C, C1-A, C1-B, C2-A, C2-B
- C. Downtown: D1, D2, R4

### **1325.7 Minimum Off-Street Parking Requirements**

Parking shall be provided in accordance with the following table (refer to 1325.6 for geographic areas). Where no requirement is designated and the use is not comparable to any of the listed uses, parking shall be based upon the capacity of the facility and its associated uses. When the calculation yields a fraction, the number of spaces shall be rounded to the nearest whole number.

<b>Parking Requirements</b>	<b>Suburban</b>	<b>Urban</b>	<b>Downtown</b>
<b>Residential Categories</b>			
Single Detached Dwelling	2 per dwelling unit	1 per dwelling unit	N/A
Duplex/Semi	1 per dwelling unit	1 per dwelling unit	N/A
Multi-dwelling structure (3+ units)	1 per dwelling unit	0.75 per dwelling unit	N/A
Accessory Dwelling Unit	1 per dwelling unit	1 per dwelling unit	N/A
Group Living	1 per 4 residents	1 per 4 residents	N/A
<b>Commercial Categories</b>			
Retail, personal service, repair oriented	3.3 per 1,000 sq. ft.	N/A	N/A
Restaurants and bars	5 per 1,000 sq. ft.	N/A	N/A
Funeral Home	5 per 1,000 sq. ft.	2 per 1,000 sq. ft.	N/A
Health clubs, gyms, bowling alleys and similar	3.3 per 1,000 sq. ft.	N/A	N/A
Hotel/Motel	1 per rentable room	0.75 per rentable room	0.5 per rentable room
Bed and Breakfast	1 per rentable room	0.5 per rentable room	0.5 per rentable room
Theaters	1 per 4 seats	1 per 4 seats	N/A
Office	2 per 1,000 sq. ft.	N/A	N/A

<b>Parking Requirements</b>	<b>Suburban</b>	<b>Urban</b>	<b>Downtown</b>
Motor Vehicle Repair, Minor	5 per 1,000 sq. ft.	2 per 1,000 sq. ft.	N/A
Motor Vehicle Repair, Major	2 per 1,000 sq. ft.	1.5 per 1,000 sq. ft.	N/A
Motor Vehicle Sales and Leasing	3.3 per 1,000 sq. ft.	3.3 per 1,000 sq. ft.	N/A
Self-service Storage	1 per 1,000 sq. ft.	1 per 1,000 sq. ft.	N/A
Commercial Outdoor Recreation	20 per acre of site	20 per acre of site	N/A
<b>Industrial Categories</b>			
Light Manufacturing	1.3 per 1,000 sq. ft.	1 per 1,000 sq. ft.	N/A
Heavy Manufacturing	1.3 per 1,000 sq. ft.	1 per 1,000 sq. ft.	N/A
Warehouse	0.5 per 1,000 sq. ft.	0.35 per 1,000 sq. ft.	N/A
Wholesale Establishment	1.3 per 1,000 sq. ft.	1 per 1,000 sq. ft.	N/A
Waste-related	Per PB review	Per PB review	Per Planning Board review
<b>Institutional Categories</b>			
Community Center and Services	2 per 1,000 sq. ft.	0.3 per 1,000 sq. ft.	N/A
Parks and Open Areas	Per PB review	Per PB review	Per Planning Board review
School – Grade Elementary, Middle, Junior High	1 per classroom	1 per classroom	N/A
School – High	7 per classroom	7 per classroom	N/A
Colleges	1.3 per 1,000 sq. ft. exclusive of dormitories, plus 1 per 4 dorm rooms	1.3 per 1,000 sq. ft. exclusive of dormitories, plus 1 per 4 dorm rooms	N/A
Hospital	2 per patient bed	2 per patient bed	2 per patient bed

<b>Parking Requirements</b>	<b>Suburban</b>	<b>Urban</b>	<b>Downtown</b>
Religious Facilities	1 per 4 seats	1 per 4 seats	N/A
Daycare	1 per 2 employees	1 per 2 employees	N/A

### **1325.8 Maximum Allowable Number Of Spaces (Does Not Apply To D1 Districts)**

- A. The number of spaces provided by any particular use in ground surface lots shall not exceed the required number of spaces provided by this ordinance by more than 25%.
- B. Where the minimum number of required spaces is “none” the maximum number of parking spaces permitted shall not exceed the minimum of Suburban districts.
- C. Spaces provided within the building footprint of structures, such as provided in multi-level parking above or below ground level, shall not count towards the maximum number of allowable spaces.

### **1325.9 Parking Dimensional Requirements**

The standards recommended shall be incorporated whenever feasible to ensure adequate and convenient access and circulation. These standards should be adhered to except in situations where a lesser standard is deemed necessary due to site topography, location of existing or proposed structures, lot configuration, and/or the need to preserve existing trees and mature vegetation.

<b>Minimum Dimensional Requirements</b>		
	<b>Regular</b>	<b>Compact</b>
Parking space width	9'	8'
Parking space length, angled	18'	16'
Parking space length parallel	22'	20'
Aisle width (one-way)	10'	9'
Aisle width (two-way)	20'	18'
<b>NOTE:</b> The front two (2) feet of any parking space located adjacent to a required or proposed setback may extend into that setback, thereby reducing the required parking space length accordingly.		

## **1325.10        Limitations, Location, Use Of Facilities**

### **A.        Location of Required Parking Facilities**

Except for single and two-family dwellings, required parking facilities may be located on another parcel of land, provided said parcel is within 500 feet of the use it is intended to serve and connected via a convenient pedestrian route. The distance from the parking lot to the use shall be measured in walking distance from the nearest parking space to an access to the building housing the use, along a sidewalk or other pedestrian path separated from street traffic. The right to use the off-site parking must be evidenced by a deed, lease, easement, or similar written instrument establishing such use, for the duration of the use.

### **B.        Neighborhood Commercial and Traditional Commercial Districts**

Surface level parking occupying street level frontage in the Neighborhood Commercial or Traditional Commercial districts shall be prohibited. All surface parking within these districts shall be hidden by plantings and/or low masonry walls which shall not exceed a six-foot height. Refer to 1319.2 and 1322.7 for specific requirements.

### **C.        Residential Districts**

Required parking in all residential districts shall not be located in a required front yard setback area abutting a public street, except alleys. This prohibition extends from the edge of the street improvement to the required yard area with the exception of access drives to the site eighteen feet (18') or less in width. Commercial vehicles shall not be permitted to park on any open space within a Residential District.

### **D.        Joint Use of Facilities**

Required parking facilities of two (2) or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that it can be shown by the owners or operators that the need for the facilities does not materially overlap and provided that such right of joint use is evidenced by a deed, lease, contract, reciprocal easement, or similar written instrument establishing the joint use. The Planning Board may approve a reduced number of parking areas to not less than 50 percent of the sum of the spaces required under existing regulations for individual uses subject to the following requirements:

1.        The applicants shall demonstrate that there is no substantial conflict in the operating hours of the two establishments for which joint parking facilities are proposed.
2.        If a use is enlarged or changed, the Planning Board shall have the discretion to require full compliance for each separate use upon finding that conditions justifying joint use no longer apply.

E. Availability of Facilities

Required parking shall be available for parking of operable passenger vehicles of residents, customers and employees only, and shall not be used for the storage or display of vehicles or materials. The distribution of parking spaces for any and all individual uses will be required to be arranged on site to ensure optimal access and use by the patrons of such use.

F. Compact Car Parking

Compact parking spaces may be used in parking structures or lots. Up to thirty (30%) percent of the total parking spaces in a parking garage may be designated for compact cars. Such spaces shall be signed or the space painted with the words "Compact Car Only".

**1325.11 Parking For Disabled Persons**

Parking spaces for disabled persons shall comply with the current Building code as well as the Americans with Disabilities Act guidelines.

**1325.12 Waivers**

The total number of parking spaces required by this part may be reduced upon approval of the Board of Appeals to the extent that the applicant can demonstrate that the regulation is unnecessarily stringent. The applicant shall submit a Parking Demand Study. A Parking Demand Study shall include, but not be limited to, information specifying the number of employees, customers, visitors, clients, shifts, deliveries, parking spaces (or other criteria established by the Planning Department) and shall develop a parking management strategy based on:

- A. Time of day parking, demand by use
- B. Shared or dual use
- C. Availability of regular public transit service within a distance of 500 feet
- D. Participation in a Transportation Management Association or adoption of a traffic and parking management plan for one or more uses, including methods to increase the use of mass transit, car pool, van pool, or non-auto modes of travel
- E. Anticipated reduction in vehicle ownership in connection with affordable housing developments, and/or,
- F. The means by which the parking management strategy will be enforceable over the long term, such as a contract, easement, or other means, and whether the City should be a party to the management contract or easement.



### 1325.13 Loading

Purpose: a minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that access to and from loading facilities will not have an adverse effect on traffic safety and transportation functions of the street.

LOADING SPACES REQUIRED	
Residential building less than 50 dwelling units	0
Residential building 50 dwelling units or greater	1
Commercial building greater than 50,000 sq ft	1
Industrial building greater than 50,000 sq ft	1

A. Design of loading spaces and areas:

1. Required loading spaces must be at least thirty-five feet (35') long, ten feet (10') wide, and have a clearance of thirteen feet (13')
2. No loading spaces are allowed in front yards
3. Areas used for off-street loading shall be paved and drained to the city sewer system. There shall be no storm water runoff onto adjacent properties, public streets or right-of-ways.
4. Lighting shall be arranged and designed so that no source of light is directed toward any lots zoned for residential use. Lighting shall be designed to shield public streets and all other adjacent lots from distracting glare or hazardous interference of any kind.



## **1326 ENVIRONMENTAL QUALITY REVIEW**

### **1326.1 Title, Authority, Purpose And Intent.**

- A. This section is enacted pursuant to Article 8 of the New York Environmental Conservation Law and 6 NYCRR Part 617, State Environmental Quality Review (SEQRA) regulations.
- B. The basic purpose of this section is to incorporate consideration of environmental factors into the existing decision-making processes of City government at the earliest possible time. It is the intent of this section that all agencies of City government conduct their affairs with an awareness that they are stewards of the air, water, land and living resources and that they have an obligation to protect the environment for the use and enjoyment of this and all future generations. No decision to carry out, approve or fund any action subject to review pursuant to this section shall be made by any unit of City government until there has been full compliance with all applicable requirements of this section.
- C. It is the intent of this section to supplement and not to replace or supersede 6 NYCRR Part 617.

### **1326.2 Definitions.**

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

AGENCY -- A state or local governmental unit, including but not limited to City Council, departments, bureaus, offices, commissions, boards and officers.

CITY -- The City of Niagara Falls.

ENVIRONMENTAL ASSESSMENT FORM -- An Environmental Assessment Form or "EAF" is a form used by the lead agency to assist it in determining the environmental significance or non-significance of actions. A properly completed EAF must contain sufficient information to describe the proposed action, its location, its purpose and its potential impacts on the environment. The lead agency will consider the EAF along with other relevant information in reaching a determination of whether or not the proposed action may significantly affect the environment. A determination that the proposed action may significantly affect the environment will require preparation of an Environmental Impact Statement or "EIS".

ENVIRONMENTAL IMPACT STATEMENT -- Environmental Impact Statement or "EIS" means a written "draft" or "final" document prepared in accordance with 6 N.Y.C.R.R. §§ 617.9 and 617.10. An EIS provides a means for agencies, project sponsors and the public to systematically consider significant adverse environmental impacts, alternatives and mitigation. An EIS facilitates the weighing of social, economic and environmental factors early in the planning and decision-making process. A draft EIS is the initial statement prepared by either the project sponsor or the lead agency and circulated for review and comment. An EIS may also be a

"generic" in accordance with 6 N.Y.C.R.R. § 617.10, a "supplemental" in accordance with 6 N.Y.C.R.R. § 617.9(a)(7) or a "federal" document in accordance with 6 N.Y.C.R.R. § 617.15.

**INTERESTED AGENCY** -- Interested agency means an agency that lacks the jurisdiction to fund, approve or directly undertake an action but wishes to participate in the review process because of its specific expertise or concern about the proposed action. An "interested agency" has the same ability to participate in the review process as a member of the public.

**INVOLVED AGENCY**-- Involved agency means an agency that has jurisdiction by law to fund, approve or directly undertake an action. If an agency will ultimately make a discretionary decision to fund, approve or undertake an action, then it is an "involved agency", notwithstanding that it has not received an application for funding or approval at the time the SEQRA process is commenced. The lead agency is also an "involved agency".

**LEAD AGENCY** -- Lead agency means an involved agency principally responsible for undertaking, funding or approving an action, and therefore responsible for determining whether an environmental impact statement is required in connection with the action, and for the preparation and filing of the statement if one is required.

**NEIGHBORHOOD CHARACTER** -- The physical elements and attributes of the area within an action's potential area of environmental impact, including land use, streetscape characteristics, design and scale of existing structures, natural features, existing pattern of population concentrations and intensity of land development.

**TYPE I ACTION** -- A type I action means an action or class of actions identified in 6 N.Y.C.R.R. § 617.4 or in § 1326.4. The Type I list is not exhaustive of those actions that an agency determines may have a significant adverse impact on the environment and require the preparation of an EIS. However, the fact that an action or project has been listed as a Type I action carries with it the presumption that it is likely to have a significant adverse impact on the environment and may require an EIS. For all individual actions which are Type I or Unlisted, the determination of significance must be made by comparing the impacts which may be reasonably expected to result from the proposed action with the criteria listed in 6 N.Y.C.R.R. § 617.7(c).

**TYPE II Action**-- A Type II action means an action or class of actions identified in 6 N.Y.C.R.R. § 617.5 or in § 1326.5 of this Zoning Ordinance. Type II Actions listed hereunder have been determined not to have a significant impact on the environment are not subject to review under this section.

**UNLISTED ACTION** -- Unlisted action means all actions not identified as a Type I or Type II action in this section.

B. Any words appearing and not defined in this section, shall have the meaning found in 6 N.Y.C.R.R. 617.2.

### **1326.3 General Rules.**

The general rules shall be those found in 6 NYCRR 617.3.

#### **1326.4          Type I Actions.**

Except as otherwise provided herein, the following are Type I actions:

- A. All actions identified as Type I actions in 6 NYCRR 617.4.

#### **1326.5          Type II Actions.**

The following are Type II actions:

- A. All actions identified as actions not requiring environmental review in 6 N.Y.C.R.R. §617.5.

#### **1326.6          Initial Review Of Actions And Establishing Lead Agency.**

Procedures for the initial review of actions shall be as set forth in 6 N.Y.C.R.R. § 617.6(a) and for establishing lead agency as set forth in 6 N.Y.C.R.R. § 617.6(b).

#### **1326.7          Referrals.**

- A. For all proposed actions requiring a referral to the Niagara County Planning Department under General Municipal Law § 239-m, such referrals shall include a copy of Part 1 of the environmental assessment form (EAF) for such action.

#### **1326.8          Determining Significance.**

Procedures and criteria for determining significance shall be as set forth in 6 N.Y.C.R.R. § 617.7.

#### **1326.9          Scoping.**

The scoping process shall be as set forth in 6 N.Y.C.R.R. § 617.8.

#### **1326.10        Preparation and Content of Environmental Impact Statements.**

The procedures for preparing environmental impact statements (EIS) shall be as set forth in 6 NYCRR 617.9(a). The content of EISs shall be as set forth in 6 N.Y.C.R.R. § 617.9(b).

#### **1326.11        Draft Environmental Impact Statement Public Hearing.**

- A. Following receipt of an acceptable draft EIS, the lead agency shall schedule a public hearing on the draft EIS.
  - 1. A notice of hearing shall be prepared by the lead agency in the manner prescribed in 6 N.Y.C.R.R. § 617.9.
  - 2. The hearing shall commence not less than 15 calendar days nor more than 60 calendar days after the filing of the completed draft EIS, except as the lead agency may otherwise provide where it determines that additional time is necessary for public or other agency review of the draft EIS or where a different hearing date is required as appropriate under

applicable law or where a different hearing date will reasonably permit consolidation with another hearing otherwise required concerning the action.

3. A transcript shall be made of any public hearing, and anyone wishing to obtain a copy of the transcript may do so, provided that the City is reimbursed for the cost of copying the transcript.

#### **1326.12 Generic Environmental Impact Statements.**

The description, purpose and procedures for generic EIS's shall be as set forth in 6 N.Y.C.R.R. § 617.10.

#### **1326.13 Decision-Making And Findings Requirements.**

Decision-making and findings requirements shall be as set forth in 6 N.Y.C.R.R. § 617.11.

#### **1326.14 Document Preparation, Filing, Publication And Distribution.**

Document preparation, filing, publications and distribution requirements shall be as set forth in 6 N.Y.C.R.R. § 617.12.

#### **1326.15 Fees And Costs.**

Fees and costs for the preparation and review of draft and final EISs shall be as set forth in 6 N.Y.C.R.R. § 617.13.

#### **1326.16 Actions Involving A Federal Agency.**

Action involving a federal agency shall be treated as set forth in 6 N.Y.C.R.R. § 617.15.

#### **1326.17 Confidentiality.**

Requests concerning confidential information shall be treated as set forth in 6 N.Y.C.R.R. § 617.16.

**1326.18        Prior Review.**

- A.     The agency considering an action shall determine whether the action has been previously reviewed pursuant to this section; been previously reviewed by an agency pursuant to Article 8 of the New York State Environmental Conservation Law; or been previously reviewed as part of a more comprehensive action pursuant to this section or said Article 8.
- B.     If an action is determined to have been previously reviewed, no further review of said action pursuant to this section may be necessary, provided that there have been no substantial changes in the action, the environmental factors which were previously assessed or the fundamental assumptions, e.g., location, use, density, traffic circulation and supporting infrastructure for the project since its previous review, and the agency considering the action was involved in the prior review process.
- C.     Use of a prior environmental impact statement shall not relieve an agency of the requirements set forth in 6 N.Y.C.R.R. § 617.11.





## **1327 NON-CONFORMING USES, BUILDINGS AND LOTS**

### **1327.1 Non-Conformance Definitions**

**NON-CONFORMING STRUCTURE:** A structure lawfully existing on the effective date of this Zoning Ordinance or an amendment thereto affecting such structure, which does not conform to the applicable requirements prescribed in this Zoning Ordinance, as amended, irrespective of the use to which the structure is put.

**NON-CONFORMING USE:** Any use of a building, structure, lot or land, or part thereof, lawfully existing on the effective date of this Zoning Ordinance or any amendment thereto, affecting such use, which does not conform to the applicable regulations prescribed in this ordinance.

### **1327.2 General Provisions**

The following provisions shall apply to all non-conforming uses and non-conforming structures. Nothing herein shall be deemed to relieve the applicant from compliance with other applicable provisions of this Zoning Ordinance. Except as provided hereinafter, non-conforming uses and non-conforming structures may be continued indefinitely, regardless of change of title, possession, or occupancy or right thereof, provided that such structures or uses:

- A. Shall not be, except as provided elsewhere in this section, enlarged, altered, extended, reconstructed, or restored or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this Zoning Ordinance or of any applicable amendment thereof, nor shall any external evidence of such non-conforming use or structure be increased by any means whatsoever.
- B. Shall not be moved to another location where such use would be non-conforming.
- C. Shall not be changed to another non-conforming use without a Special Permit approval by the Board of Appeals in accordance with §1302.2 of this Zoning Ordinance. No Special Permit for such change in non-conforming use shall be issued unless the Board of Appeals determines that:
  - (1) the applicant has demonstrated that the existing non-conforming use cannot reasonably be changed to a use permitted in the district where the non-conforming use is located; and
  - (2) the proposed new non-conforming use is no more objectionable than the existing non-conforming use. The determination of whether the new non-conforming use is more objectionable shall be based upon comparison of each use as to conformance with the purposes and intent of the City's Comprehensive Plan and the impact of the proposed new use on surrounding properties and neighborhood character including, but not limited to, factors such as intensity of use, pedestrian and vehicular activities, visual impact, noise, smoke, dust, noxious matter, heat, glare, vibration, storage and waste disposal, hours of

activity, and numbers of individuals living at, frequenting or employed at the site in question.

- D. No non-conforming structure or use changed to a less objectionable non-conforming use or structure shall be changed back to a more objectionable use or structure.
- E. Shall not be continued, re-established, or changed to another non-conforming use if such use has been discontinued for any reason for a period of one year. Intent to resume a non-conforming use shall not confer the right to do so.
- F. Shall not be re-established if such use has been changed to, or replaced by, a conforming use.
- G. Shall not be restored except in conformity with the requirements of this Zoning Ordinance where such non-conforming use or structure is damaged for any reason, to the extent of more than fifty percent (50%) of its fair market value. If the restoration of a use or structure whose damage does not exceed fifty percent (50%) of its fair market value is not completed within one (1) year from the date of damage, the non-conforming use or structure shall be deemed to have been discontinued and may not be resumed or restored. In no event shall such restoration cause the bulk, height or area of the non-conforming use or structure to be in excess of that which existed prior to the damage, and all such restoration work must fully comply with all applicable requirements of the Uniform Code.

### **1327.3 Repairs, Maintenance And Additions**

- A. Notwithstanding any of the foregoing regulations, nothing in this section shall be deemed to prevent normal maintenance and repair of any building, or the carrying out upon the issuance of a building permit of major structural alterations or demolitions necessary in the interest of public safety.
- B. Upon a finding by the Board of Appeals that a proposed addition to a non-conforming structure and/or non-conforming use would (1) render such structure or use less objectionable to surrounding land uses within the meaning of § 1327.7(C)(2) of this Zoning Ordinance; and (2) not exceed a 50% expansion of the gross floor area of the structure or use at the time such structure or use became legally non-conforming, said board may issue a Special Permit for such addition in accordance with §1302.2 of this Zoning Ordinance. ..

### **1327.4 Non-Conforming Structures**

Except as otherwise provide herein, no structure which is non-conforming may be reconstructed, enlarged or altered in such a manner as to increase such nonconformity.

### **1327.5 Use of Non-Conforming Lots**

These regulations shall not prohibit the location of a conforming use or structure on, any lot of which the area or width does not meet the minimum of the zoning district in which it is located, provided:

- A. The lot was of legal size on the date it was created as a lot.
- B. The lot was owned separately and distinctly from any other adjoining lot having a common boundary line as evidenced by a deed recorded in the County Clerk's Office on or before the effective date of this Zoning Ordinance or any applicable amendment thereto and has been continuously thereafter owned as a separate distinct lot from any other adjoining lot.
- C. All yard, coverage, and other zoning requirements can be met however, in those instances where the lot area or shape prevent conformance with one or more yard requirements, the requirements for that yard shall be the same as the most restrictive district to which the lot area most nearly conforms.
- D. The owner thereof owns no adjoining land which would bring the lot into conformity.

### **1327.6 Non-Conforming Lots Must Be Adjoined**

If two (2) or more lots or combinations of lots or portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Zoning Ordinance, and if all or part of the lots do not meet the requirements established for width and area, the lands involved shall be considered one or more undivided parcels to the extent required for conformance with the width and area requirements of this Zoning Ordinance, and must be used as such irrespective of subsequent changes in ownership. The provisions of this Section shall not apply if any portion of said parcel shall, after the adoption of this Zoning Ordinance or applicable amendment, be used or divided in a manner which prevents or diminishes compliance with the requirements established by this Zoning Ordinance or amendment thereto.



## **1328 SPECIAL PERMIT REQUIREMENTS**

### **1328.1 Parking, Commercial**

For parking (commercial) uses which require a Special Permit, the following conditions shall be required. All surface parking areas shall:

- A. be paved and drained to the City sewer system
- B. have a minimum 10% of the total parking area landscaped
- C. have a minimum of 1 tree for each seven parking spaces
- D. be screened along all street frontages with any combination of shrubs, masonry and/or ornamental metal fencing (e.g., wrought iron) of at least four feet in height and no more than six feet in height. Chain link fencing is prohibited.
- E. parking areas shall be setback from the property line a minimum 5'
- F. have no lighting standards exceeding a maximum of 25 feet in height.
- G. comply with all other relevant design standards in 1319.2 f). In a case of conflict the requirements of 1328.1 shall prevail.

### **1328.2 Motor Vehicle Service and Repair – Minor or Major**

For motor vehicle service and repair (minor or major) uses which require a Special Permit, the following conditions shall be required:

- A. No traffic hazard affecting the public safety will be present.
- B. Entrance and exit driveways shall not be located nearer than 10 feet to any lot line; and shall be so laid out as to avoid the necessity of any vehicle backing into any public right-of-way.
- C. Vehicle lifts or pits, dismantled automobiles, all parts or supplies, goods, equipment, materials, refuse, garbage, or debris shall be located within a building enclosed on all sides.
- D. All service or repair of motor vehicle shall be conducted in a building enclosed on all sides.

- E. Gasoline or flammable oils in bulk shall be stored fully underground in conformance with the Fire Prevention Code.
- F. Gasoline pumps or lubricating or other devices shall be located not nearer than twenty feet (20') from any street or other lot line.
- G. Collision work, body work and painting shall not be done on the premises.
- H. Wrecked vehicles shall not be stored on the premises for more than one (11) working day.
- I. No dwellings shall be permitted on the same site.

### **1328.3 Tourism and Sightseeing-Oriented**

For tourism and sightseeing oriented uses which require a Special Permit, the following conditions shall be required:

- A. The sightseeing operation, tour sales and related services shall be allowed only as an accessory use upon premises and as such shall not be the primary use of the building and/or grounds. An accessory use shall be a minority percentage of the total floor area, within which it is situated, evidence thereof shall be required.
- B. Signage shall be limited to one (1) wall sign per frontage and shall be located upon building frontage facing public streets and such sign shall not exceed twelve (12) square feet in total copy area.
- C. There shall not be more than one (1) freestanding sign per premises.
- D. Freestanding signs shall not exceed twelve (12) square feet per face, two-face maximum.
- E. Sightseeing agency advertising signage shall otherwise comply with Chapters 1121 and 375 of the Codified Ordinances of the City of Niagara Falls.

### **1328.4 Group Living**

For group living uses which require a Special Permit, the following conditions shall be required:

- A. Said home shall conform and be maintained in harmony with the overall character and appearance of the surrounding neighborhood.
- B. Said home shall not erect any sign that identifies or advertises the use or occupancy of the home.

### **1328.5 Kennel or Cattery**

For kennels or catteries which require a Special Permit, the following conditions shall be required:

- A. Board of Appeals shall consider the number, size, breed, and temperament of animals to be sheltered and impose reasonable conditions to protect proximate uses, aesthetic impact, and safety of the animals sheltered in order to ensure the health, safety, and general welfare of the community.
- B. Accumulation of feces on a property which results in a foul or nauseating odor or unsightly condition that makes travel or residence in the vicinity uncomfortable, or which attracts flies or other insects or animals thereby creating an unsanitary condition which may facilitate the spread of disease and endanger health, public comfort and repose, or the environment that will be in violation of Special Permit and thereby allow its revocation.
- C. There shall be no incineration of any refuse upon the premises.
- D. Site Plan shall specifically contain provisions for adequate measures to prevent offensive noise and odor and disposal of all animal wastes.

### **1328.6 Telecommunication Facility**

For telecommunication facilities which require a Special Permit, the following conditions shall be required:

#### **A. Objectives**

The City shall apply the telecommunication regulations to specifically:

- 1. Protect the visual character of the City from the potential adverse effects of telecommunication facility development and minor antenna installations;
- 2. Provide a public forum to insure a balance between public concerns and private interest in establishing telecommunication and related facilities;
- 3. Protect residents from the possible adverse health effects associated with exposure to high levels of Non-Ionizing Electromagnetic Radiation (NIER); and,
- 4. Protect the environmental and scenic resources of Niagara Falls.

#### **B. Preferred Locations**

Any existing site on which a legal wireless telecommunications facility is currently located shall be a Preferred Location Site regardless of the underlying zoning designation of the site, provided, however, that locations which meet this criteria shall be subject to the design and siting components of this Ordinance, or any other such policies which are, or may be, adopted by the Planning Board and the Zoning Board of Appeals including, but not limited to, policies which prevent location of so many facilities on a structure such that the roof or site resembles an “antennae farm” or is otherwise deemed visually obtrusive.

The Planning Board shall express a preference for: co-location on existing structures, provided there is such a technologically feasible and available location; location on existing structures; location in the highest intensity use district; property in close proximity to any other existing structures that either, (1) exceed, (2) meet, or (3) approach the height limit for that district, where so locating will provide minimum visual impact due to other installations or construction of similar type and visual impact.

The Planning Board will not approve applications for such sites unless the application (a) shows what publicly-used building, co-location site or other Preferred Location Sites are located within the geographic service area; (b) shows by clear and convincing evidence what good faith efforts and measures to secure these Preferred Location Sites were taken; (c) explains why such efforts were unsuccessful; and (d) demonstrates that the location for the site is essential to meet demands in the geographic service area and the applicant's citywide network, provided, however, that facilities placed on publicly-used structures, or in co-location sites as defined above, shall not be disfavored sites and may be approved for installation by the Board of Appeals.

A guideline for the Planning Board's preference, from most favorable to least favorable districts/property, is as follows:

1. Preferred Location Sites:

- a. Property with an existing structure suitable for building-mounted installation, and/or for co-location, unless it is located within a recognized Historic, Scenic, or other Special Development District, and in the following preference order: (1) Municipal or institutional use property, (2) Industrial Districts, (3) Commercial Districts, (4) Multi-Family Residential Districts.
- b. Property allows installation that is in close proximity to other existing structures that either (1) exceed, (2) meet; or (3) approach the height limit for that district and in the following preference order: (1) Municipal or institutional use property, (2) Industrial Districts, (3) Commercial Districts, (4) Multi-Family Residential Districts.
- c. All other Industrial and C3 Commercial District property.

2. Limited Preference Sites:

- a. Other property in the following district preference, unless it is located within a recognized Historic, Scenic, or other Special Development District: (1) Municipal or Institutional use property, (2) C2 Commercial District, (3) R3 Multi-Family Residential District.

3. Disfavored Sites:

- a. Other property in the following district preference, unless its located within a recognized Historic, Scenic, or other Special Development District: (1) C1 Commercial District, (2) Other Residential Districts.



- b. Any property within 500 feet of a National Historic Register property, and any property within a recognized Historic, Scenic or Special Development District.
- c. Low intensity residential property and districts are disfavored.

C. Application Procedures

Applications for telecommunications facilities shall include, as a minimum, the following information:

1. Statement of intent regarding the lease of excess space on the facility to other potential users at reasonable market rental rates and terms. The Zoning Board of Appeals may modify this condition if the facility is attached to an existing structure. The letter shall commit the facility owner and successors to: respond in a timely, comprehensive manner to a request for information, negotiate in good faith for shared use by third parties and allow shared use if an applicant agrees in writing to pay reasonable rental charges or other consideration and to pay all costs of adapting the facility or existing users' equipment to accommodate a shared user without causing uneconomical correctable electromagnetic interference or causing electromagnetic radiation in excess of levels set by Federal Regulations and can otherwise agree on reasonable business terms and conditions for shared use of the facility.
2. Five Year Facilities Plan to include: description of the type of technology each company/carrier will provide to its customers over the next five (5) years (Cellular, PCS, ESMR).
3. A presentation size map of the City which shows the five (5) year plan cell sites and/or the geographic service areas of the cell sites. The map shall be provided in hard copy at a 24-inch by 36-inch or greater size.
4. List of all existing and proposed cell sites within the City owned or operated by the applicant including: address and S-B-L number; building type, use and height; zoning district; Identification of carrier (applicant's company); number of antennas and base transceiver stations (BTS) per site by your carrier and, if there are other installations on a site, list the number by each carrier; describe the type of antenna and its installation (stand alone rooftop, rooftop attached to a mechanical penthouse, or building facade) and location of the BTS installation(s); List the height from grade to the top of the antenna installation(s). If you do not yet know the specific facility location, identify the cell and an approximation of the optimum facility location contained within the geographic service area you anticipate for each City neighborhood and identify each geographic service area with a number that will correspond to the future cell site (Site 1, Site 02).
5. Evidence of compliance with all applicable State and Federal licensing, as well as, a statement of compliance verifying facility operation within Federal Communications Commission (FCC) designated frequencies and power levels. Subsequent field verification, by a qualified agent, may be requested by the City, at the applicant's expense. Verification shall not be required more than once every five (5) years.

6. Written agreement by applicant to remove the Telecommunication Facility if such facility becomes technically obsolete or ceases to be used for its intended purpose for twelve (12) consecutive months.

D. Conditions of Approval

In addition to site plan requirements in Chapter 1324 the Planning Board and Board of Appeals may require the applicant to:

1. Require out-of-state facilities to be designed as public art rather than as obtrusive utilities.
2. Towers to be designed and sited so as to avoid application of Federal Aviation Administration (FAA) lighting and painting requirements. Unless otherwise directed by the City, FAA or other controlling entity, towers shall be a galvanized finish or painted matte gray with no reflective surfaces.
3. No tower shall contain or support any signs or advertising devices.
4. A road and one (1) loading space shall be provided to assure adequate emergency and service access.
5. All communications towers and guy anchors shall be enclosed by a fence not less than eight feet (8') in height or otherwise sufficiently protected from trespassing or vandalism.
6. Elevations the facility and tower showing the proposed antennas, together with a photo montage of the Facility from the most prominent public vantage point from a distance of not less than 500 feet.
7. Location of all structures on the property and all structures on any adjacent property within twenty feet 20' of the property lines, together with the distance of these structures to the communications tower.

E. Application Fees

The Following permit fees, in addition to building permit fees, are applicable to those telecommunication facilities which require a Special Permit:

1. Special Permit fees, plus
2. Telecommunication Facility Application Fee - \$500.00
3. Tower Permit Fee - \$2,500.00 (base) plus \$100.00 per foot, for every foot of tower height according to the following schedule:
  - a. In excess of fifty feet (50') in R1, R2, R3, R4, C1, OS and NPD Districts or Waterfront Overlay; or
  - b. In excess of 100 feet in C2, C3, INS Districts; or

- c. In excess of 150 feet in I1 or I2 Districts, plus
- 4. Prior to the issuance of a Building Permit, a financial security bond with the City as assignee in an amount not less than \$50,000.

#### **1328.7 Adult Use**

For adults uses which require a Special Permit, the following conditions shall be required

- A. The Director of Inspections shall issue a letter of compliance for an adult use, provided that said adult use is not located:
  - 1. Within a five-hundred foot (500') radius or any area zoned for residential use; or
  - 2. Within a five-hundred foot (500') radius of another adult use; or
  - 3. Within a five-hundred foot (500') radius or any school, church, or other place of religious worship, park, playground or playing field; or
- B. No more than one adult use shall be located on any lot.

#### **1328.8 Bed And Breakfast**

For bed and breakfast uses which require a Special Permit, the following conditions shall be required:

- A. Bed and Breakfast shall be private, owner-occupied with no more than five guest rooms.

#### **1328.9 Recreation, Commercial Outdoor**

For recreation (commercial outdoor) uses which require a Special Permit, the following conditions shall be required:

- A. Exterior lighting and parking shall not detract from the overall park-like setting.

#### **1328.10 Funeral Home**

For funeral homes which require a Special Permit, the following conditions shall be required:

- A. Parking areas shall be restricted to the rear of the building and/or hidden from street views.

#### **1328.11 Manufacturing, Light**

For manufacturing (light) uses which require a Special Permit, the following conditions shall be required:

A. Building Façade

A minimum of 75% of the front building façade shall be devoted to retail use

B. Air

No dust or particulate matter shall be emitted that is detectable at boundary or property lines by a reasonable person without instruments. Exhaust air ducts shall be located or directed away from abutting/adjacent structures or public walkways and sidewalks.

C. Electromagnetic Radiation and Interference Standard

No activity, operation or use shall cause electromagnetic radiation interference that (a) adversely affects persons of the operation of any equipment across lot lines and (b) is not in conformance with the regulations of the Federal Communications Commission.

D. Odor

No continuous, frequent or repetitive odors are permitted which are perceptible on or beyond adjacent property lines. An odor detected no more than a total of 15 minutes in any one day shall not be deemed to be continuous, frequent, or repetitive for this regulation.

E. Liquid And Solid Waste

The use, handling, storage and transportation of waste materials, including hazardous wastes shall adhere with applicable local, New York State and US laws. Discharge at any point into a public or private sewage disposal system, stream, or the ground, of any material which could contaminate any water supply, or otherwise cause the emission of dangerous or offensive elements is prohibited.

F. Noise

It shall be unlawful for any person to operate, or permit to be operated, any stationary noise source in such a manner as to create a sound pressure level which exceeds 65 dBA when measured at the property boundary of the noise source or at any point within any other property affected by the noise.

G. Lighting

All outdoor lights shall be designed, located, installed and directed in such a manner to prevent objectionable light at and across the property lines, and to prevent glare at any location on or off the property. In addition, fixtures shall be full cut-off fixture installed in a horizontal position or be a fully shielded fixture to prevent glare and/or light trespass from all building, site.

H. Loading Areas

All loading areas shall be designed and landscaped to minimize visual impact from adjacent properties.

**1328.12        Camper Parks**

For camper parks which require a Special Permit, the following conditions shall be required:

Refer to Chapter 1129 of the City of Niagara Falls Ordinance



USE CATEGORIES	Residential Districts				Commercial Districts			Downtown Districts		Industrial Districts		Open Space	Institutional	Negotiated Planned Dev.
	Detached Single R1 A, B, C, D	Doubles R2 A, B	Multi- Family R3 A, B, C	Heritage R4	Neighborhood C1 A, B	Traditional C2 A, B	General C3	Downtown D1 A, B, C, D	Gorge View D2	Business Park I1	Industrial I2	OS	Institutional INS	NPD  (Refer to 1318.2)
Residential Categories														
Accessory Dwelling Unit		✓	✓	✓	✓	✓		✓						
Bed and Breakfast	S	S	✓	✓	✓	✓		✓						
Duplex/Semi Detached		✓	✓	✓	✓									
Group Living			✓	S	✓	✓	✓	✓					✓	
Multi-dwelling structure (3+ units)			✓	✓	✓	✓	✓	✓						
Single Detached Dwelling	✓	✓	✓	✓	✓									
Townhouse			✓	✓	✓	✓		✓						
Industrial Categories														
Junkyard														-
Manufacturing, Light						S	✓			✓	✓			-
Manufacturing, Heavy											✓			-
Recycling Operation											✓			-
Warehouse							✓			✓	✓			-
Waste-related											✓			-
Wholesale Establishment										✓	✓			-
Institutional Categories														
Community Center and Services	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	
College						✓	✓	✓		✓	✓		✓	
Hospital						✓	✓			✓	✓		✓	
Parks, Public Use & Recreation Areas	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Parks, Open Space & Natural Areas	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Religious Facilities	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	
School, Public and Private	✓	✓	✓		✓	✓	✓	✓		✓	✓		✓	

✓ = Permitted Use  
S = Permitted only with Special Permit (refer to Chapter 1328 for specific use requirements and conditions)

Empty Box = Not Permitted

<sup>1</sup> Accessory Only

USE CATEGORIES	Residential Districts				Commercial Districts			Downtown Districts		Industrial Districts		Open Space	Institutional	Negotiated Planned Dev.
	Detached Single R1 A, B, C, D	Doubles R2 A, B	Multi-Family R3 A, B, C	Heritage R4	Neighborhood C1 A, B	Traditional C2 A, B	General C3	Downtown D1 A, B, C, D	Gorge View D2	Business Park I1	Industrial I2	OS	Institutional INS	NPD  (Refer to 1318.2)
Commercial Categories														
Adult Uses											S			
Bar			✓ (C only)	✓	✓	✓	✓	✓		✓	✓			
Camper Parks			S (A only)				S							
Child & Small Day Care Centers			✓	✓	✓	✓	✓	✓		✓			✓	
Contractor's Yard											✓			
Cultural Facilities, Private			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Family & Group Family Day Care Homes	✓	✓	✓	✓	✓	✓	✓	✓					✓	
Funeral Home						S	✓			✓	✓		✓	
Hotel/Motel				✓		✓	✓	✓		✓				
Kennel or Cattery						S	S			✓				
Motor Vehicle Service and Repair, Minor							✓			✓	✓			
Motor Vehicle Service and Repair, Major							S			✓	✓			
Motor Vehicle Sales and Leasing							✓			✓	✓			
Office			✓ (C only)	✓	✓	✓	✓	✓		✓	✓		✓	
Parking, Commercial											✓			
Rail Transit Facility						✓	✓			✓	✓			
Recreation, Commercial Outdoor							✓	✓	✓	✓	✓	S		
Restaurant			✓ (C only)	✓	✓	✓	✓	✓		✓	✓		✓	
Retail Sales and Service			✓ (C only)	✓	✓	✓	✓	✓		✓	✓		✓ <sup>1</sup>	
Shopping Center							✓	✓						
Storage, Self-Serve							✓			✓	✓			
Telecommunication Facility	S	S	S	S	S	S	S	S	S	S	S	S	S	
Tourism and Sightseeing Oriented						S	S	S		S	S			
Veterinary Clinic						✓	✓			✓	✓		✓	

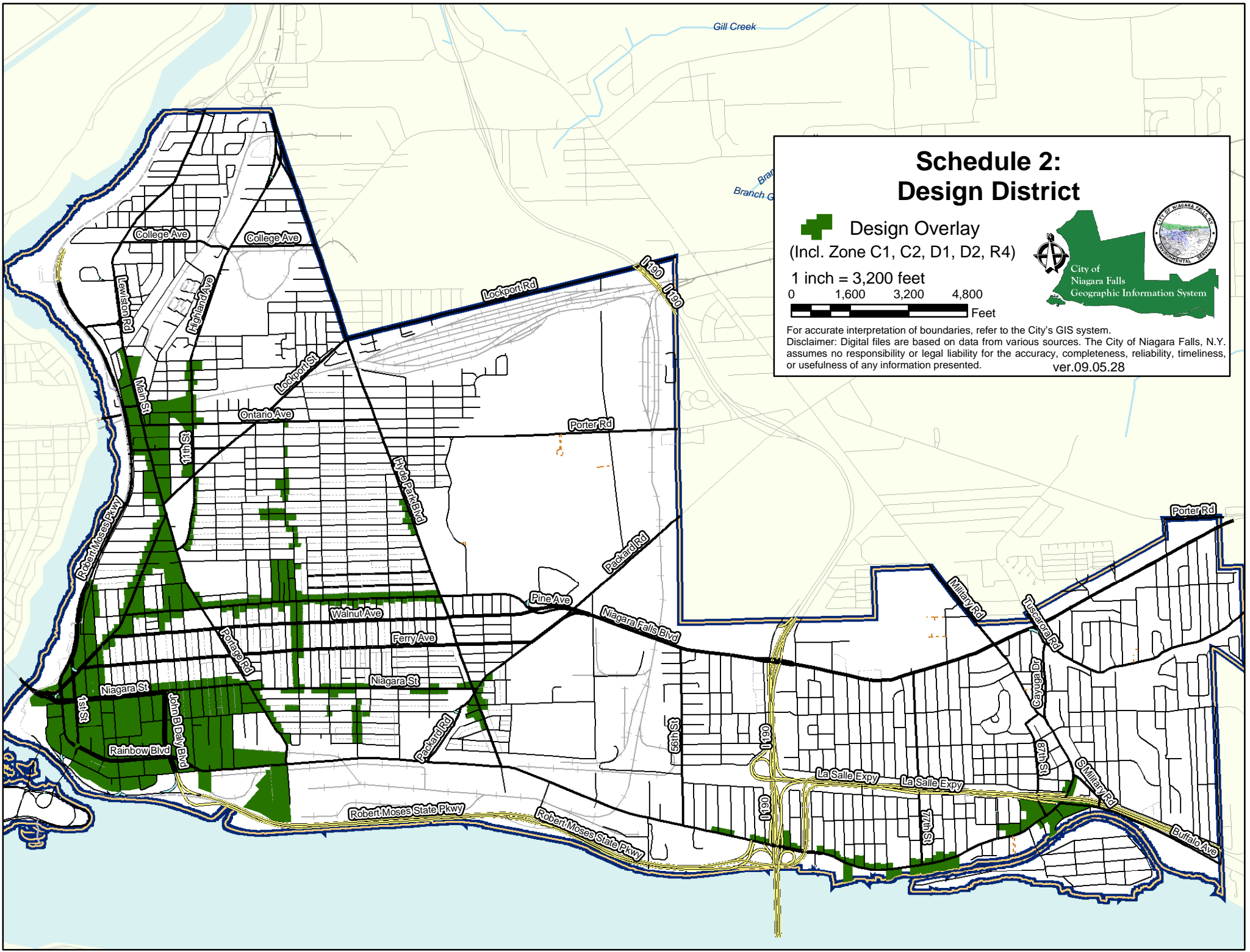
✓ = Permitted Use

Empty Box = Not Permitted

S = Permitted only with Special Permit (refer to Chapter 1328 for specific use requirements and conditions)

<sup>1</sup> Accessory Only





# Schedule 3: Urban Renewal Areas

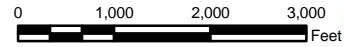


Urban Renewal Area

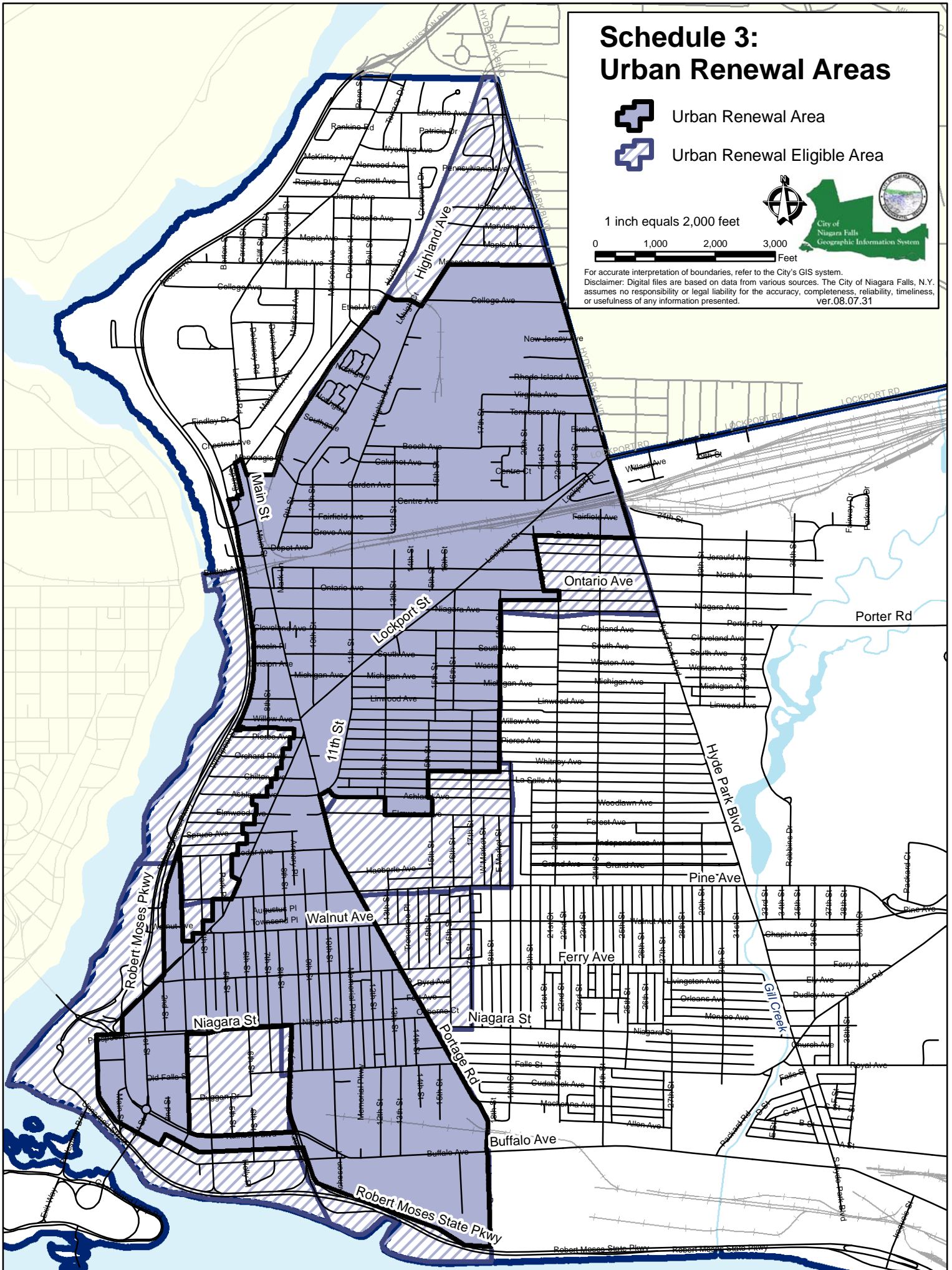
Urban Renewal Eligible Area

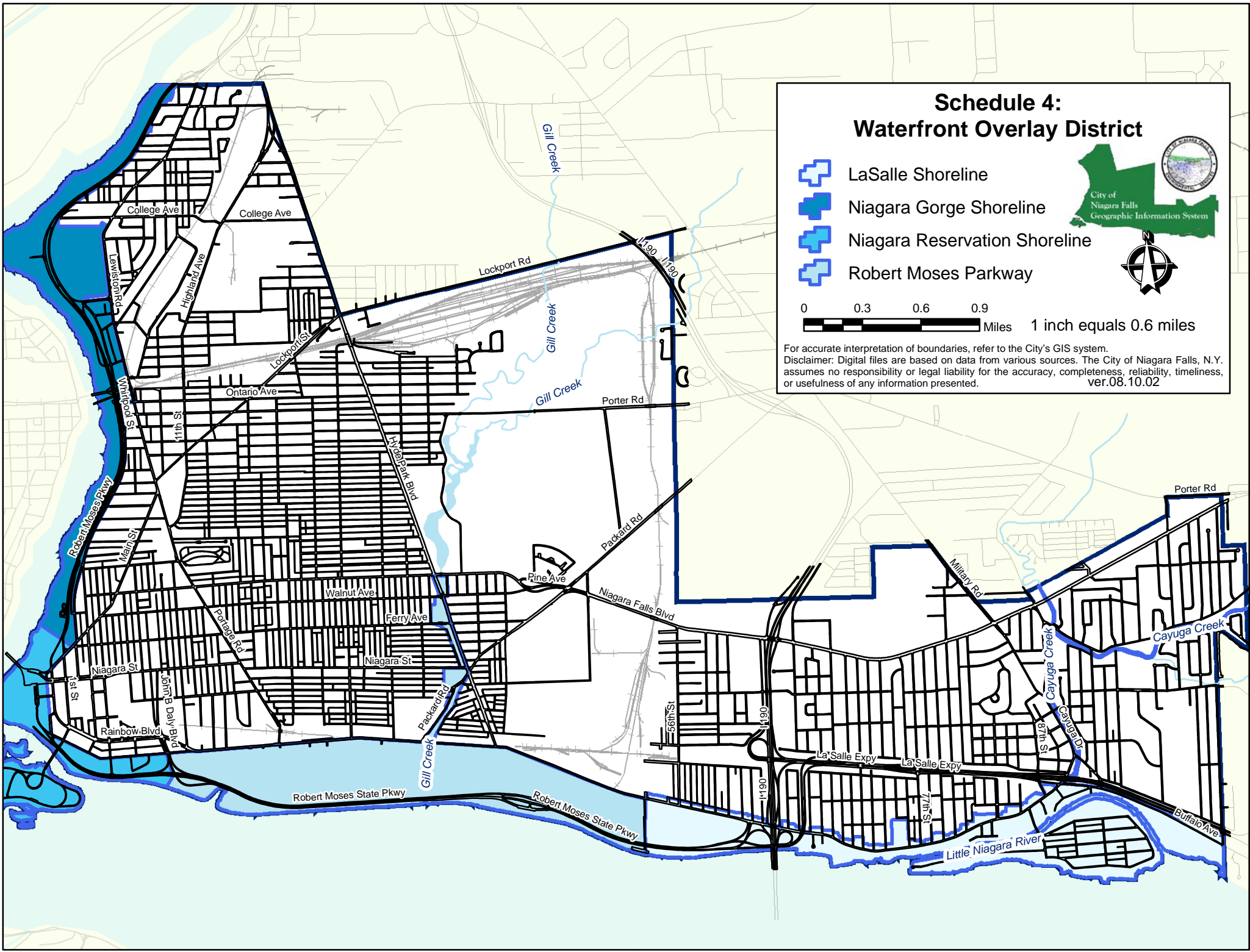


1 inch equals 2,000 feet



For accurate interpretation of boundaries, refer to the City's GIS system.  
Disclaimer: Digital files are based on data from various sources. The City of Niagara Falls, N.Y., assumes no responsibility or legal liability for the accuracy, completeness, reliability, timeliness, or usefulness of any information presented. ver.08.07.31





# Schedule 4: Waterfront Overlay District

- LaSalle Shoreline
- Niagara Gorge Shoreline
- Niagara Reservation Shoreline
- Robert Moses Parkway

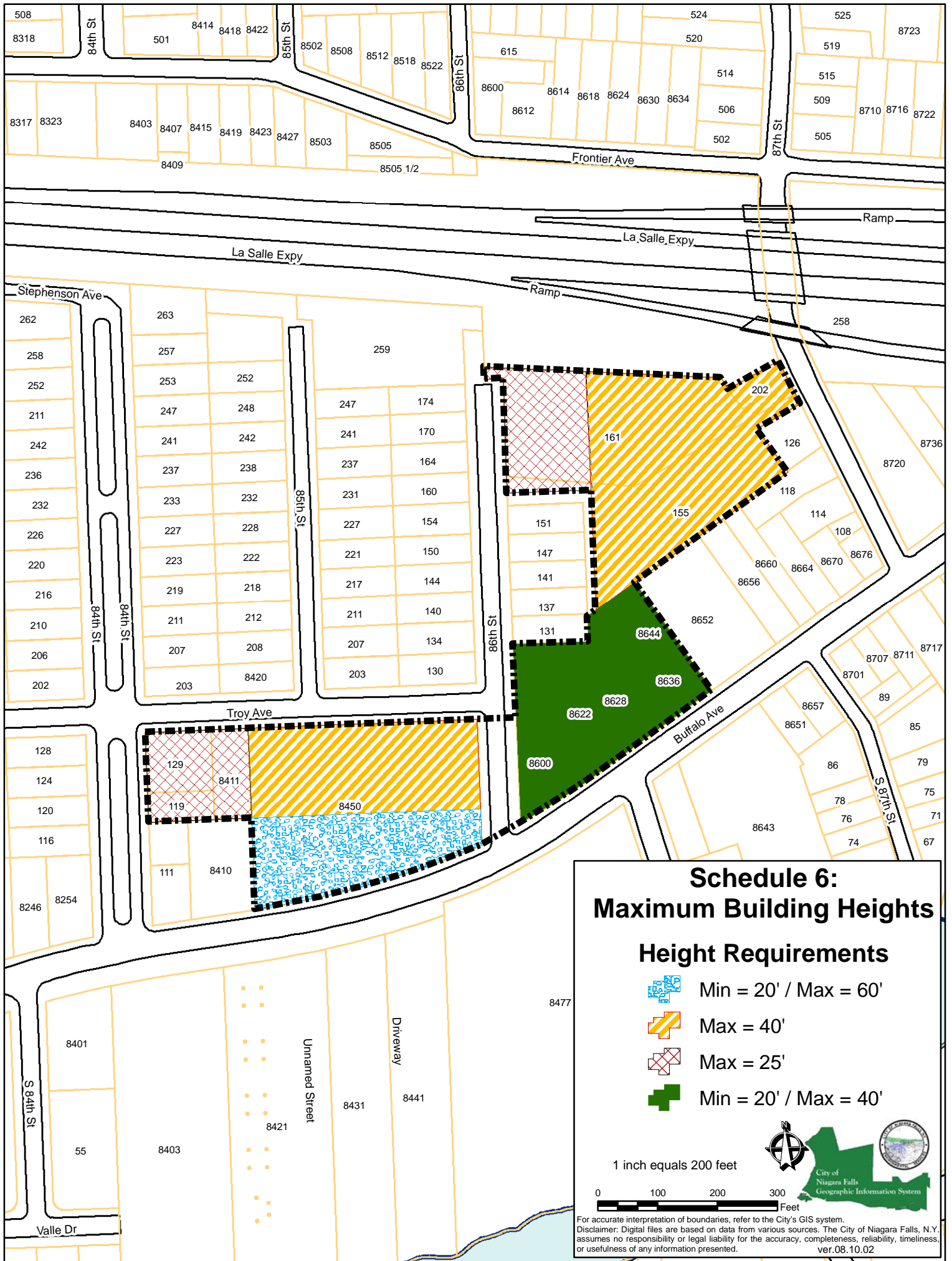


0 0.3 0.6 0.9  
Miles 1 inch equals 0.6 miles

For accurate interpretation of boundaries, refer to the City's GIS system.  
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ver.08.10.02








## Schedule 7: Niagara County Application Referrals

Adjacent to  City Boundary

Corner of  County, State & Federal Roads

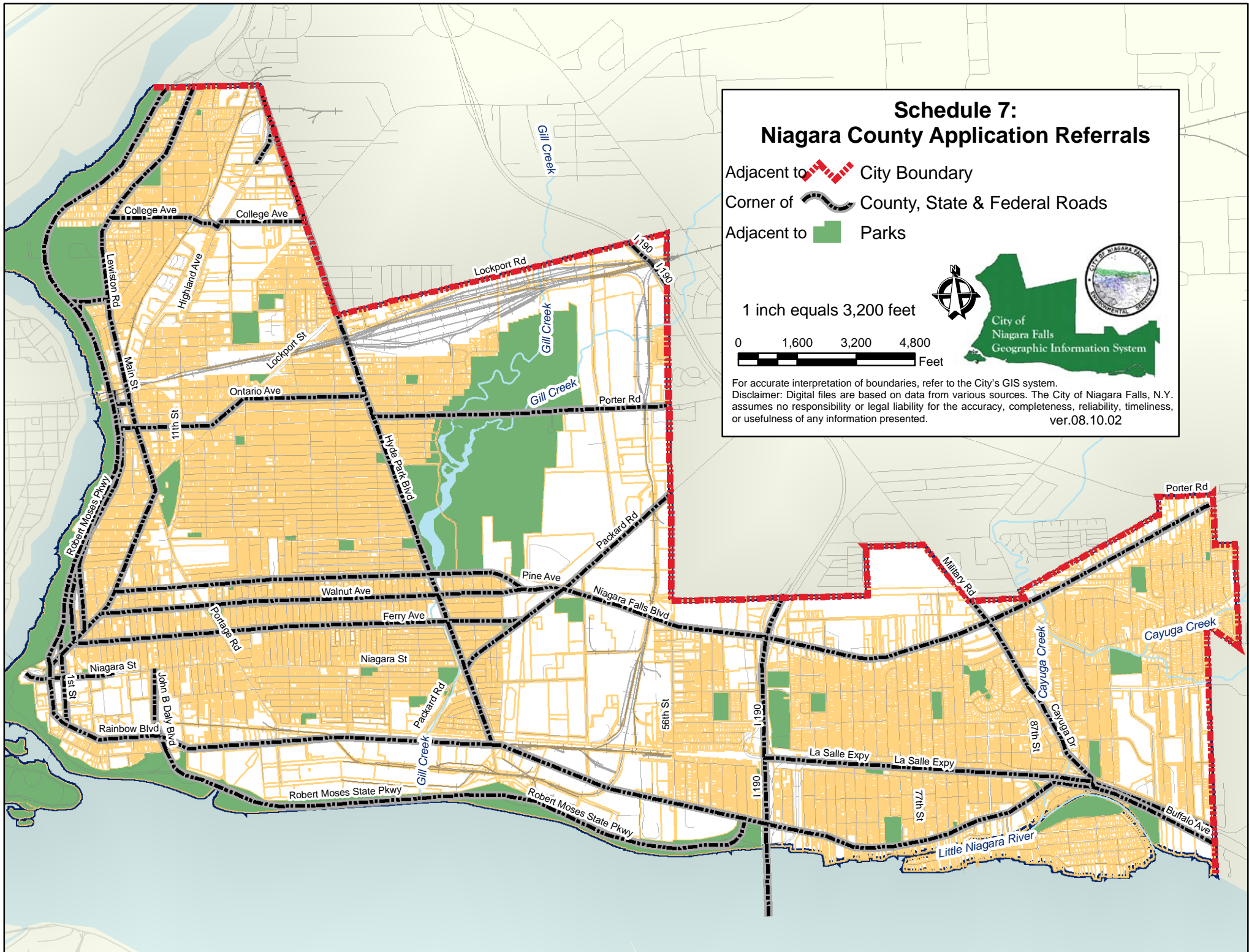
Adjacent to  Parks

1 inch equals 3,200 feet

0 1,600 3,200 4,800  
Feet



For accurate interpretation of boundaries, refer to the City's GIS system.  
Disclaimer: Digital files are based on data from various sources. The City of Niagara Falls, N.Y. assumes no responsibility or legal liability for the accuracy, completeness, reliability, timeliness, or usefulness of any information presented.  
ver.08.10.02





# Schedule 8: Official Zoning Map

## Residential

### R1 - Detached Single

- R1-A
- R1-B
- R1-C
- R1-D

### R2 - Doubles

- R2-A
- R2-B

### R3 - Multi-Family

- R3-A
- R3-B
- R3-C

### R4 - Heritage

- R4

## Commercial

### C1 - Neighborhood

- C1-A
- C1-B

### C2 - Traditional

- C2-A
- C2-B

### C3 - General

- C3

## Downtown

### D1 - Downtown

- D1-A
- D1-B
- D1-C
- D1-D

### D2 - Gorge View

- D2

## Other

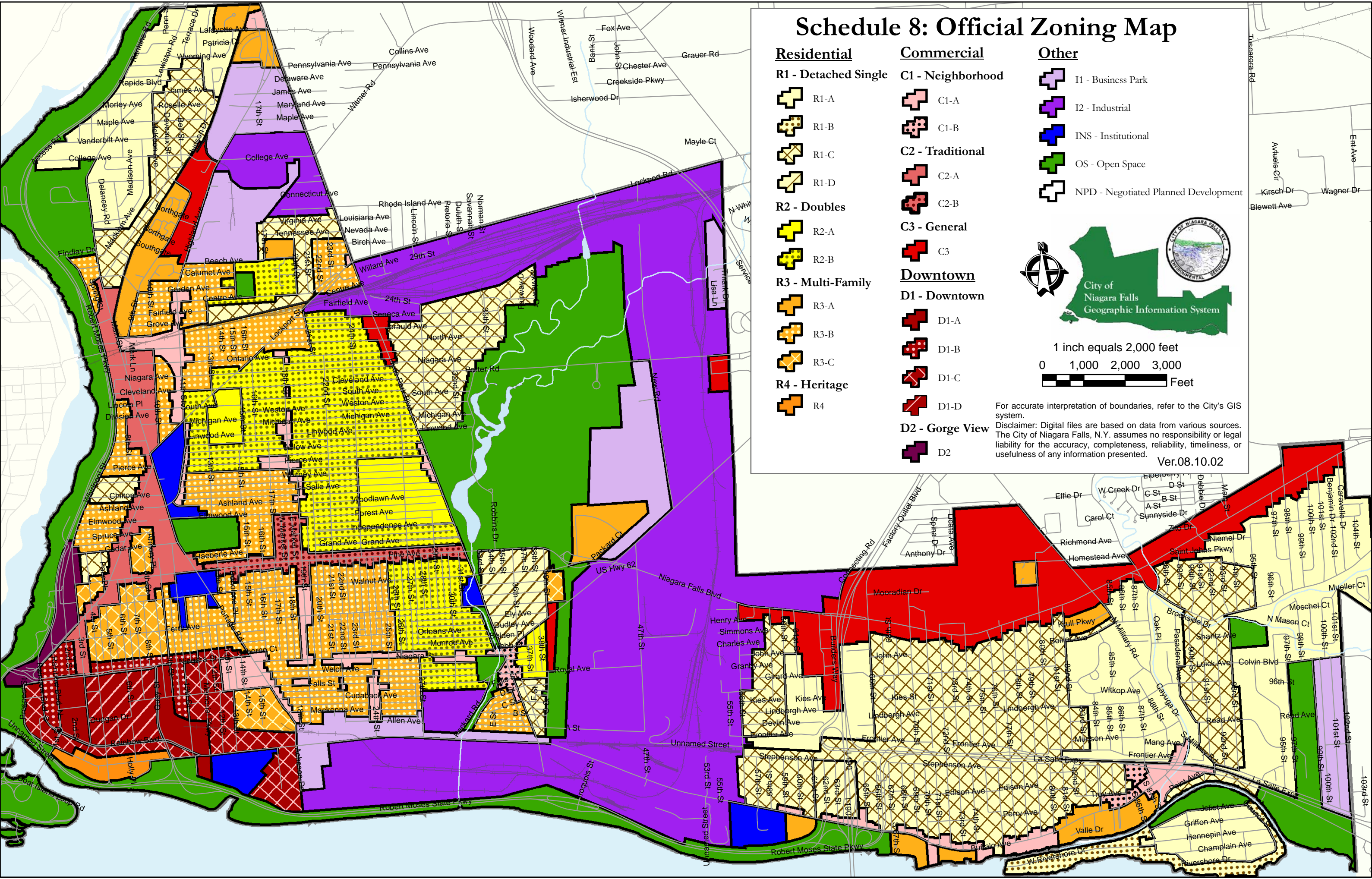
- I1 - Business Park
- I2 - Industrial
- INS - Institutional
- OS - Open Space
- NPD - Negotiated Planned Development



1 inch equals 2,000 feet  
0 1,000 2,000 3,000 Feet




For accurate interpretation of boundaries, refer to the City's GIS system.  
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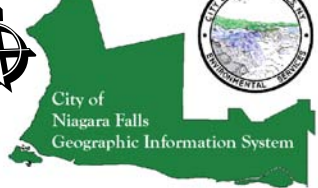
Ver.08.10.02





### Schedule 9: State / Federal Wetlands & Flood Zones -Within City Limits-

 National Wetland Inventory
  NYS DEC Wetlands
  100 Year FEMA Flood Zone

City of  
Niagara Falls  
Geographic Information System

1 inch equals 3,200 feet

0 1,600 3,200 4,800 Feet

For accurate interpretation of boundaries, refer to the City's GIS system.  
Disclaimer: Digital files are based on data from various sources. The City of Niagara Falls, N.Y. assumes no responsibility or legal liability for the accuracy, completeness, reliability, timeliness, or usefulness of any information presented.  
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