

- E. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth in this Ordinance. Yards or lots created after May 23, 2006 shall meet the minimum requirements established by this Ordinance.
- F. No required yard shall be separated in ownership from that portion of the lot on which a structure is located.

§1-12 Transitional Provisions

1-12-1 Projects Under Construction Prior to Effective Date

- A. Site plans approved within ~~one~~ two years prior to the adoption of this Ordinance or the MPD provisions shall be allowed to proceed under the regulations of the prior Zoning Ordinance without additional approvals.
- B. Any buildings or development for which a permit was issued before May 23, 2006 or before [effective date of MPD], if the MPD provisions apply, may be completed in conformance with the issued permit and other applicable permits and conditions, even if such building or development does not fully comply with provisions of this Ordinance.
- C. Nothing in this Ordinance shall require a change to a phasing plan approved prior to the adoption of this Ordinance or the adoption of the MPD provisions, provided construction is consistent with the terms and conditions of the phasing plan and proceeds to completion within five years of the original approval date, unless extended by the Planning Board.
- D. If construction is not completed according to the applicable permit terms, the entity that approved the application may, for good cause shown, grant an extension of up to one year for such construction. If the building is not completed within the time allowed under the original permit or any extension granted, then the building shall be constructed, completed or occupied only in compliance with this Ordinance.

1-12-2 Applications Submitted Prior to Effective Date

- A. Any complete application submitted before May 23, 2006 or before [effective date of MPD] if the MPD provisions apply, may be completed in conformance with applicable permits and conditions of the regulations in effect at the time of submission of the application, even if such application does not fully comply with provisions of this Ordinance.
- B. An application submitted before May 23, 2006 or before [effective date of MPD], if the MPD provisions apply, not considered complete within six months after completion of SEQR review shall be considered null and void.
- C. If construction is not commenced or completed according to the applicable terms of the application, the entity that approved the application may, for good cause shown, grant an extension of up to one year for such construction. If the building is not completed within the time allowed under the original application or any extension granted, then the building shall be constructed, completed or occupied only in compliance with this Ordinance.

PARKING STRUCTURE. A structure or a portion of a structure that provides parking areas for motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

PATIO HOME. A single-family detached dwelling unit placed on a small lot with a rear yard that may be enclosed by a wall.

PERSON. See §6-7-1.

PERSONAL WIRELESS FACILITY. See §6-7-1.

PERSONAL WIRELESS SERVICES OR PWS OR PERSONAL TELECOMMUNICATIONS SERVICE OR PCS. See §6-7-1.

PETITIONER. An applicant.

PLACES OF ASSEMBLY. Any space devoted to gathering together persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social or similar purposes.

PLANT NURSERY. An establishment for the growth, display or sale of trees, shrubs, flowering and nonflowering plants and materials used in indoor or outdoor planting, conducted within or without an enclosed building.

PRIMARY LIVE ENTERTAINMENT. Entertainment which characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances [Added 7-7-08 by L.L. No. 9-2008].

PUBLIC PLAZA. Open space accessible to the public that may be improved, landscaped, or paved, usually surrounded by buildings or streets.

PUBLIC UTILITY SERVICE STRUCTURE OR FACILITY. A building or fenced-in area containing equipment used by a public utility to provide and distribute its services.

PUBLIC WORKS CONSTRUCTION YARD. An area used on a temporary basis for the storage, assembly or processing of materials, equipment, and supplies used in the construction of a United States, New York State, Erie County or Town of Amherst public works project. The public works construction yard may include offices associated with the public works project. Typical projects include but are not limited to: construction, reconstruction, or repair of public infrastructure such as roadways, storm sewers, sanitary sewers, and waterlines [Added 12-7-09 by L.L. No. 19-2009].

RELIGIOUS INSTITUTION. A place of assembly used primarily as a church, synagogue, temple, mosque or other place of religious worship [Added 7-7-08 by L.L. No. 9-2008].

RESEARCH DEVELOPMENT FACILITY. A business that engages in research or development of innovative ideas in technology-intensive fields. Typical uses include: experimental, research and testing facilities, including but not limited to, the construction or operation of: small scale experimental and pilot plant operations; laboratories; production operations if ancillary to, or resulting from, a permitted experimental, research or testing operation; communication, navigation control, guidance systems, transmission and reception equipment; data processing equipment and systems; audio components and radio and television equipment; scientific and medical instruments; assembly testing and calibration of components, devices, systems and equipment, such as but not limited to, electronic, scientific, medical, optical, biochemical, chemical, metallurgical and pharmaceutical goods.

§4-2 Office Building District (OB)

4-2-1 Purpose

To provide areas within the Town devoted predominately to offices by regulating the land area, bulk and spacing of uses, particularly at common boundaries and promoting the most desirable land use and traffic patterns in accordance with the objectives of the comprehensive plan. Master Planned developments are permitted to provide greater flexibility in the uses and development of a parcel by tailoring the development to the site and neighborhood.

4-2-2 Permitted and Special Uses

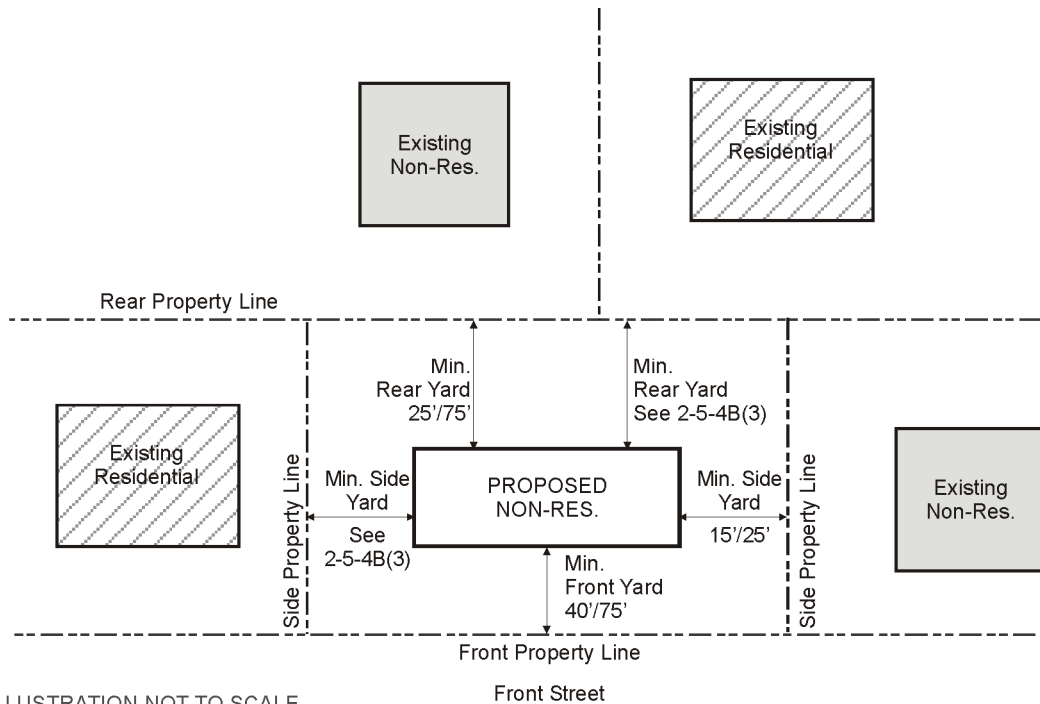
A. Permitted Uses and Structures

OB	Permitted	Special Use	Standards
OPEN USES			
<i>No open uses allowed</i>			
RESIDENTIAL USES			
Upper-story dwelling unit	✓		§6-2-6
PUBLIC AND CIVIC USES			
Day-care center	✓		§6-3-2
Minor utilities	✓		
Place of worship	✓		§6-3-3
Public utility service structure or facility		✓	§6-3-4
Public works construction yard [Added 12-7-09 by L.L. No. 19-2009]	✓		§6-3-5
Telecommunication facility		✓	§6-7
COMMERCIAL USES			
Bank	✓		§4-8-4
Contracting or construction services	✓		§6-4-4
Office	✓		
Training schools, such as technical, trade, vocational or business	✓		
INDUSTRIAL USES			
<i>No industrial uses allowed</i>			
MASTER PLANNED DEVELOPMENT USES (See §8-7-7B for Applicability)			
Above listed uses as permitted			
Attached dwellings	✓		§6-9
Retail sales and service	✓		§6-9
Senior housing	✓		§6-9

B. Dimensional Standards

OB	Principal & Accessory Use/Structure Dimensional Standards	Vehicle Use Area
Min. lot area	None	
Min. lot width	None	
Min. front yard Height of structure up to 30 ft Height of structure 30 ft or more	40 ft 75 ft	15 ft* 15 ft*
Min. rear yard (abutting residential/nonresidential) Height of structure up to 30 ft Height of structure 30 ft or more	See §2-5-4B(3)/ 15 ft See §2-5-4B(3)/ 25 ft	25 ft* / 10 ft* 25 ft* / 10 ft*
Min. side yard (abutting residential/nonresidential) Height of structure up to 30 ft Height of structure 30 ft or more	See §2-5-4B(3)/ 15 ft See §2-5-4B(3)/ 25 ft	25 ft* / 10 ft* 25 ft* / 10 ft*
Max. height	65 ft	
Max. building coverage	None	
Min. interior building separation	30 ft	

* The entire area must be landscaped.



4-2-3 Accessory Uses and Structures

A. Permitted Accessory Uses and Structures

The following accessory uses and structures incidental to any permitted principal use are allowed subject to the requirements of §6-8, Accessory Uses or Part 7, General Development Standards.

Part 4. Nonresidential Districts

§4-2. Office Building District (OB)

OB	Permitted Accessory Uses and Structures	Standards
	Commercial recreation	§6-8-3
	Employee lunchroom	
	Landscaping	§7-2
	Maintenance facility and air-conditioning, heating and ventilating equipment	
	Off-street parking, loading, and stacking	§7-1
	Restaurant without drive-through or outdoor dining	
	Retail stores and services (may be manufactured or assembled on-premise)	§6-8-11
	Signs	§7-8
	Small wind energy system [Added 8-17-09 by L.L. No. 12-2009]	§6-8-14
	Storage garage	
	Uses engaged primarily in research and development activities, including: Research, experimental and developmental laboratories and facilities; Communication, navigation control, transmission and reception equipment; Controls equipment and guidance systems; Data processing equipment and systems; Audio components, radio and television equipment; Scientific and medical instruments; Microfilming and record preparation; Assembly, testing and calibration of components, devices, systems and equipment, such as but not limited to electronic, scientific, medical, optical, biochemical, chemical, metallurgical and pharmaceutical.	§6-5-1
	Other uses and structures customarily incidental to the principal use	

B. Dimensional Standards

The dimensional standards for an accessory use or structure shall be the same as those for the principal use in §4-2-3B.

4-2-4 Master Planned Development Uses

A. Uses and structures which are permitted by right or by special use permit in §4-2-2 and §4-2-3 may be permitted as part of a Master Planned Development in accordance with §8-7. The following uses shall only be permitted as part of a Master Planned Development in accordance with §8-7.

- (1) Attached dwellings
- (2) Senior citizen housing
- (3) Retail sales and services, as permitted in the NB district

B. Master planned development uses shall comply with the General Development Standards of Part 7, unless otherwise modified by §8-7, and with the use regulations of §6-9.

4-2-5 General Development Standards

- A. Interior side or rear yards separating parking, loading and stacking area from lot lines are not required for unified developments.
- B. Development in the OB district shall also comply with the requirements referenced in the table below.

OB	General Development Standards
	Off-Street Parking, Loading and Stacking §7-1
	Landscaping, Buffers and Screening §7-2
	Site Lighting §7-3
	Outdoor Storage and Display §7-4
	Fences and Walls §7-5
	Access and Circulation §7-6
	Provisions for Flood Hazard Reduction §7-7
	Sign Regulations §7-8
	Performance Standards §7-9
	Bulk Storage of Combustible or Flammable Liquids §7-10

§4-4 General Business District (GB)

4-4-1 Purpose

To provide community centers within existing and proposed commercial nodes and mixed use activity centers for the location of commercial uses which serve a larger market area than a neighborhood center, as articulated in the comprehensive plan, and provide for community-wide needs for general goods and services and comparison shopping. Such uses require larger land areas, generate large volumes of traffic and may generate large amounts of evening activity. Master Planned developments are permitted to provide greater flexibility in the development of a parcel by tailoring the development to the site and neighborhood.

4-4-2 Principal and Special Uses

A. Permitted Uses and Structures

GB	Permitted	Special Use	Standards
OPEN USES			
<i>No open uses allowed</i>			
RESIDENTIAL USES			
Upper-story dwelling unit	✓		§6-2-6
PUBLIC AND CIVIC USES			
Ambulance service	✓		
Daycare center, nursery or other private school	✓		
Minor utilities	✓		
Place of worship	✓		§6-3-3
Public utility service structure or facility		✓	§6-3-4
Public works construction yard [Added 12-7-09 by L.L. No. 19-2009]	✓		§6-3-5
Telecommunication facility		✓	§6-7
COMMERCIAL			
Advertising agency	✓		
Animal grooming, cat boarding facility, hospital or veterinarian [Amended 2-4-08 by L.L. No. 1-2008]	✓		§6-4-1
Antiques and second-hand merchandise store	✓		
Apparel and accessories store	✓		
Apparel repair and alterations and shoe repair shop	✓		
Archival center	✓		
Bakery or confectionary shop (retail)	✓		
Bank	✓		§4-8-4
Beauty or barber shop	✓		
Book and stationery store	✓		§6-4-6
Commercial recreation activities, indoor	✓		
Commercial recreation activities, outdoor		✓	
Contracting or construction services	✓		§6-4-4
Department store	✓		
Drug store	✓		§4-8-4
Employment agency	✓		
Farm and garden supply store	✓		

Part 4. Nonresidential Districts

§4-4. General Business District (GB)

<h1>GB</h1>	Permitted Special Use	Standards
Farm equipment sales or service	✓	
Food store	✓	
Funeral home	✓	
Gymnasium or health club [Added 2-4-08 by L.L. No. 1-2008]	✓	
Hardware store	✓	
Home furnishing store	✓	
Home garden store	✓	
House and camping trailer sales, camping equipment and accessories and related repair and service	✓	
Household fixture and appliance sales or service	✓	
Jewelry store	✓	
Job printing or photography store	✓	
Ice store	✓	
Laundromat, cleaning and dyeing outlets and pickup	✓	
Liquor store	✓	
Motel or hotel	✓	
Motion picture theater or live theater [Added 9-21-09 by L.L. No. 14-2009]	✓	
Nurseries for sale of plants, shrubs, and trees	✓	
Office	✓	
Passenger terminal	✓	
Personal training facility [Added 2-4-8 by L.L. No. 1-2008]	✓	
Photographic store	✓	
Photography studio [Added 2-4-08 by L.L. No. 1-2008]	✓	
Printing and photocopying store	✓	
Plumbing store	✓	
Postal store or post office	✓	
Restaurant with drive-through	✓	§4-8-4
Restaurant with outdoor dining	✓	§6-4-8
Restaurant without drive-through or outdoor dining	✓	
Retail services	✓	
Sexually oriented cabaret or theater, or sexually oriented motion picture theater [Added 7-7-08 by L.L. No. 9-2008]	✓	§6-6
Sexually oriented media store, sex shop [Added 7-7-08 by L.L. No. 9-2008]	✓	§6-6
Shops for custom work for the making of articles to be sold only at retail on the premises	✓	
Sporting goods and bicycle store	✓	
Tattoo parlor / body art studio [Added 1-16-07 by L.L. No. 2-2007]	✓	
Variety store	✓	
Vehicle parts sales	✓	§6-4-10
Vehicle sales (new), rental, leasing and related repair; used vehicle sales and vehicle rental in conjunction with new vehicle sales only	✓	§6-4-11
Wholesale store	✓	
INDUSTRIAL		
<i>No industrial uses allowed</i>		

<h1>GB</h1>	Permitted	Special Use	Standards
	MASTER PLANNED DEVELOPMENT USES (See §8-7-7B for Applicability)		
	Above listed uses as permitted and as noted in §4-4-4		
			§6-9

B. Dimensional Standards

GB	Principal & Accessory Use/Structure	Dimensional Standards	Vehicle Use Area
	Min. lot area	None	
	Min. lot width	None	
	Min. front yard		
	Height of structure up to 30 ft	60 ft	10 ft*
	Height of structure 30 ft or more	75 ft	10 ft*
	Min. rear yard (abutting residential/nonresidential)		
	Height of structure up to 30 ft	See §2-5-4B(3)/ 15 ft	15 ft* / 5 ft*
	Height of structure 30 ft or more	See §2-5-4B(3)/ 25 ft	15 ft* / 5 ft*
	Min. side yard (abutting residential/nonresidential)**		
	Height of structure up to 30 ft	See §2-5-4B(3)/ None or 10 ft if not on lot line	15 ft* / 5 ft*
	Height of structure 30 ft or more	See §2-5-4B(3) / 25 ft	15 ft* / 5 ft*
	Max. height	65 ft	
	Max. building coverage	None	
	Min. interior building separation	None required	
	Max. gross building space	100,000 sq ft, unless permitted as part of a MPD in accordance with §8-7	

* The entire area must be landscaped.

** Accessory structures shall be setback a minimum of ten feet [Added 9-21-09 by L.L. No. 14-2009].

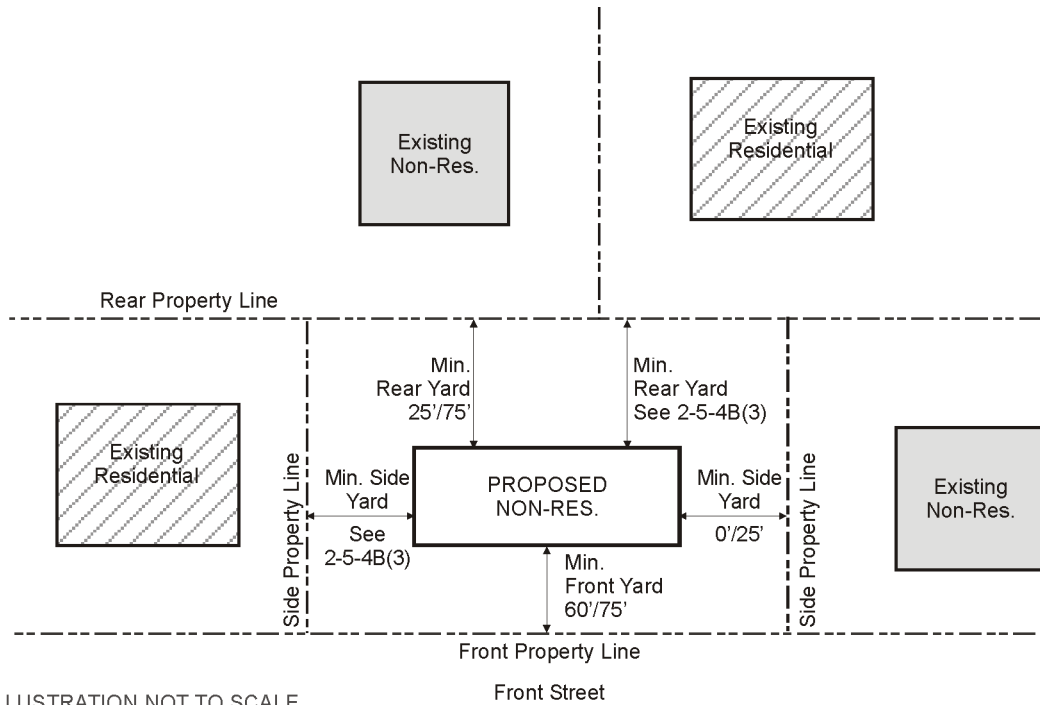


ILLUSTRATION NOT TO SCALE

4-4-3 Accessory Uses and Structures

A. Permitted Accessory Uses and Structures

The following accessory uses and structures incidental to any permitted principal use are allowed subject to the requirements of §6-8, Accessory Uses or Part 7, General Development Standards.

GB	Permitted Accessory Uses and Structures	Standards
	Landscaping	§7-2
	Off-street parking, loading, and stacking	§7-1
	Signs	§7-8
	Small wind energy system [Added 8-17-09 by L.L. No. 12-2009]	§6-8-14
	Other uses and structures customarily incidental to the principal use	

B. Dimensional Standards

The dimensional standards for an accessory use or structure shall be the same as those for the principal use in §4-4-2B.

4-4-4 Master Planned Development Uses

- A. Uses and structures which are permitted by right or by special use permit in §4-4-2 and §4-4-3 may be permitted as part of a Master Planned Development in accordance with §8-7.
- B. The following uses shall not be permitted as part of a Master Planned Development:
 - (1) Ambulance service

- (2) Public works construction yard
 - (3) Farm equipment sales or service
 - (4) House and camping trailer sales, camping equipment and accessories and related repair and service
 - (5) Ice store
 - (6) Vehicles sales (new), rental, leasing and related repair; used vehicle sales and vehicle rental in conjunction with new vehicle sales only
- C. Master planned development uses shall comply with the General Development Standards of Part 7, unless otherwise modified by §8-7, and with the use regulations of §6-9.

4-4-5 General Development Standards

- A. Interior side or rear yards separating parking, loading and stacking area from lot lines are not required for unified developments.
- B. Development in the GB district shall also comply with the requirements referenced in the table below.

GB	General Development Standards
	Off-Street Parking, Loading and Stacking §7-1
	Landscaping, Buffers and Screening §7-2
	Site Lighting §7-3
	Outdoor Storage and Display §7-4
	Fences and Walls §7-5
	Access and Circulation §7-6
	Provisions for Flood Hazard Reduction §7-7
	Sign Regulations §7-8
	Performance Standards §7-9
	Bulk Storage of Combustible or Flammable Liquids §7-10

§4-7 Shopping Center District (SC)

4-7-1 Purpose

To provide regional centers within the Town that provide goods and services in full range and variety, drawing from a large population base. Development occurs on parcels of at least five acres with compatible business enterprises designed and planned as a unified entity with common access points and off-street parking, loading and stacking areas to jointly serve all buildings. Attached dwelling units will be permitted when a part of and integrated with a qualifying business enterprise development. Master Planned developments are permitted to provide greater flexibility in the development of a parcel by tailoring the development to the site and neighborhood.

4-7-2 Principal and Special Uses

A. Permitted Uses and Structures

SC	Permitted	Special Use	Standards
OPEN USES			
<i>No open uses allowed</i>			
RESIDENTIAL USES			
Attached dwelling unit	✓		§3-12-2B(3)
Upper-story dwelling unit	✓		§6-2-6
PUBLIC AND CIVIC USES			
Daycare center, nursery or other private school	✓		
Minor utilities	✓		
Place of worship	✓		§6-3-3
Public utility service structure or facility		✓	§6-3-4
Public works construction yard [Added 12-7-09 by L.L. No. 19-2009]	✓		§6-3-5
Telecommunication facility		✓	§6-7
COMMERCIAL			
Advertising agency	✓		
Animal grooming, cat boarding facility, animal hospital or veterinarian [Amended 2-4-08 by L.L. 1-2008]	✓		§6-4-1
Antiques and second-hand merchandise store	✓		
Apparel and accessories store	✓		
Apparel repair and alterations and shoe repair shop	✓		
Archival center	✓		
Bakery or confectionary shop (retail)	✓		
Bank	✓		§4-8-4
Beauty or barber shop	✓		
Book and stationery store	✓		§6-4-6
Commercial recreation activities, indoor	✓		
Commercial recreation activities, outdoor		✓	
Contracting or construction services	✓		§6-4-4
Department store	✓		

SC	Permitted Special Use	Standards
Drug store	✓	§4-8-4
Employment agency	✓	
Farm and garden supply store	✓	
Farm equipment sales or service	✓	
Food store	✓	
Funeral home	✓	
Gymnasium or health club [Added 2-4-08 by L.L. No. 1-2008]	✓	
Hardware store	✓	
Home furnishing store	✓	
Home garden store	✓	
House and camping trailer sales, camping equipment and accessories and related repair and service	✓	
Household fixture and appliance sales or service	✓	
Indoor commercial recreation facility	✓	
Jewelry store	✓	
Job printing or photography store	✓	
Ice store	✓	
Laundromat, cleaning and dyeing outlets and pickup	✓	
Liquor store	✓	
Medical laboratory testing service	✓	
Motel or hotel	✓	
Motion picture theater or live theater [Added 9-21-09 by L.L. No. 14-2009]	✓	
Nurseries for sale of plants, shrubs, and trees	✓	
Office	✓	
Passenger terminal	✓	
Personal training facility [Added 2-4-08 by L.L. No. 1-2008]	✓	
Photography studio [Added 2-4-08 by L.L. No. 1-2008]	✓	
Printing and photocopying store	✓	
Plumbing store	✓	
Postal store or post office	✓	
Restaurant with drive-through	✓	§4-8-4
Restaurant with outdoor dining	✓	§6-4-8
Restaurant without drive-through or outdoor dining	✓	
Service station	✓	§6-4-9
Shops for custom work for the making of articles to be sold only at retail on the premises	✓	
Sporting goods or bicycle store	✓	
Variety store	✓	
Vehicle sales, rental, leasing and related repair, including trailers	✓	§6-4-11

Part 4. Nonresidential Districts
 §4-7. Shopping Center District (SC)

SC	Permitted	Special Use	Standards
Wholesale store	✓		
INDUSTRIAL			
<i>No industrial uses allowed</i>			
MASTER PLANNED DEVELOPMENT USES (See §8-7-7B for Applicability)			
Above listed uses as permitted and as noted in §4-7-4			§6-9

B. Dimensional Standards

SC	Principal & Accessory Use/Structure Dimensional Standards	Vehicle Use Area
Min. lot area	5 ac	
Min. lot width	None	
Min. front yard	100 ft	25 ft*
Min. rear yard (abutting residential/nonresidential)	See §2-5-4B(3)/ 50 ft	25 ft* / 10 ft*
Min. side yard (abutting residential/nonresidential)	See §2-5-4B(3)/ 50 ft	25 ft* / 10 ft*
Max. height	65 ft	
Max. building coverage	None	
Min. interior building separation	30 ft	
Max. gross building space	150,000 sq ft, unless permitted as part of a MPD in accordance with §8-7	

* The entire area must be landscaped.

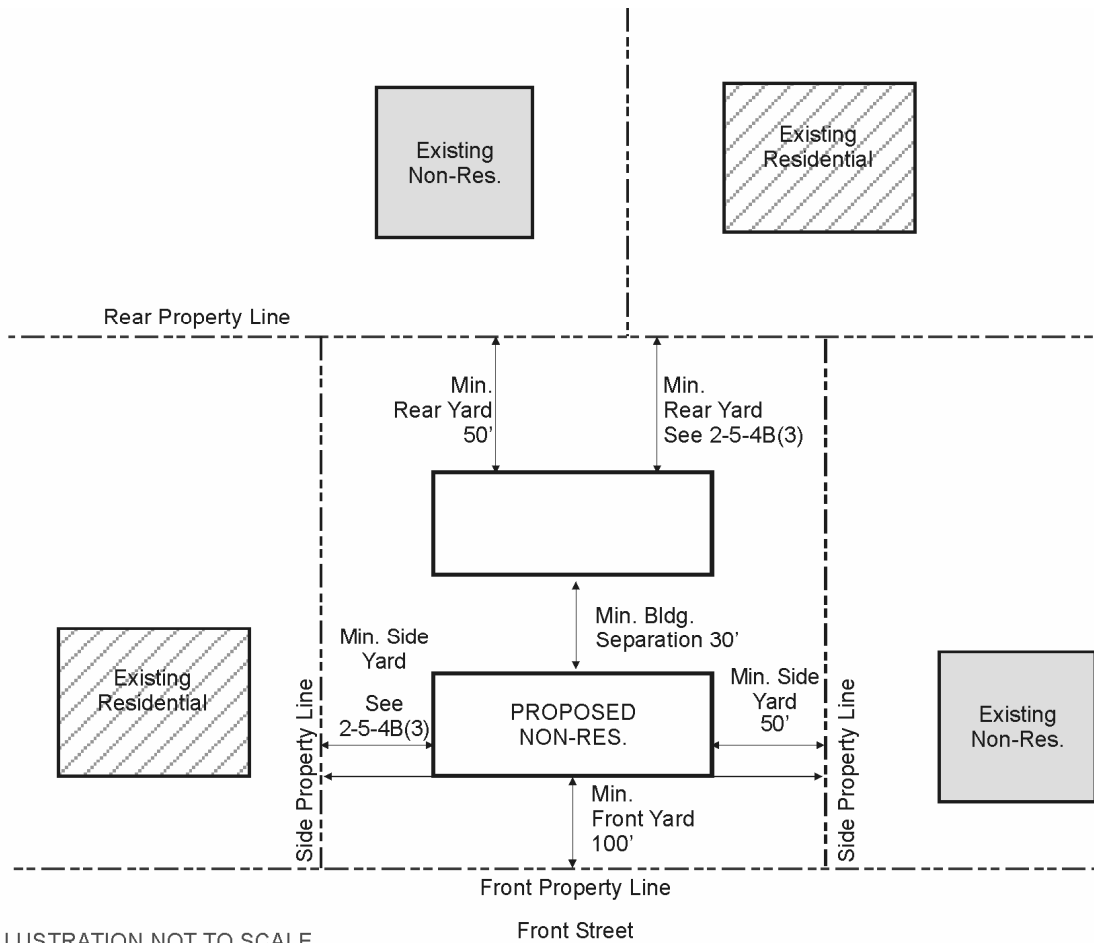


ILLUSTRATION NOT TO SCALE

4-7-3 Accessory Uses and Structures

A. Permitted Accessory Uses and Structures

The following accessory uses and structures incidental to any permitted principal use are allowed subject to the requirements of §6-8, Accessory Uses or Part 7, General Development Standards.

SC	Permitted Accessory Uses and Structures	Standards
	Landscaping	§7-2
	Off-street parking, loading, and stacking	§7-1
	Signs	§7-8
	Small wind energy system [Added 8-17-09 by L.L. No. 12-2009]	§6-8-14
	Storage facility clearly incidental to the principal use	
	Other uses and structures customarily incidental to the principal use	

B. Dimensional Standards

The dimensional standards for an accessory use or structure shall be the same as those for the principal use in §4-7-2B.

4-7-4 Master Planned Development Uses

- A. Uses and structures which are permitted by right or by special use permit in §4-7-2 and §4-7-3 may be permitted as part of a Master Planned Development in accordance with §8-7.
- B. The following uses shall not be permitted as part of a Master Planned Development.
 - (1) Public works construction yard
 - (2) Farm equipment sales or service
 - (3) House and camping trailer sales, camping equipment and accessories and related repair and service
 - (4) Ice store
 - (5) Vehicle sales, rental, leasing and related repair, including trailers
- C. Master planned development uses shall comply with the General Development Standards of Part 7, unless otherwise modified by §8-7, and with the use regulations of §6-9.

4-7-5 General Development Standards

- A. All principal and accessory uses, except signs, outdoor storage and display, outdoor seating and dining, and off-street parking, loading and stacking, shall be conducted within completely enclosed structures.
- B. Interior side or rear yards separating parking, loading and stacking area from lot lines are not required for unified developments.
- C. Distance between buildings and vehicle use areas from right-of-way of dedicated interior streets shall be a minimum of 25 feet.
- D. Development in the SC district shall also comply with the requirements referenced in the table below.

SC	General Development Standards
	Off-Street Parking, Loading and Stacking §7-1
	Landscaping, Buffers and Screening §7-2
	Site Lighting §7-3
	Outdoor Storage and Display §7-4
	Fences and Walls §7-5
	Access and Circulation §7-6
	Provisions for Flood Hazard Reduction §7-7
	Sign Regulations §7-8
	Performance Standards §7-9
	Bulk Storage of Combustible or Flammable Liquids §7-10

S6-9 Master Planned Development (MPD) Use Regulations

6-9-1 All Master Planned Development Uses

MPD uses in the OB, GB and SC districts are subject to the following standards.

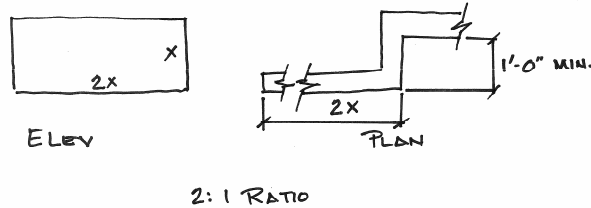
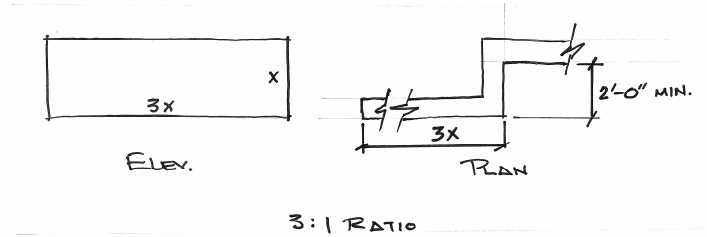
A. General

- (1) The MPD must comply with the policies and recommendations of the Comprehensive Plan and any adopted neighborhood plans in which it is located. Conditions of approval may be added as a means of satisfying this requirement.
- (2) The MPD shall comply with all other applicable provisions of this Ordinance unless specifically modified by the conditions of this Section or by approval of a Final MPD site plan.
- (3) Alternative means of satisfying the conditions listed below may be approved as part of the final MPD site plan at the sole discretion of the Planning Board.

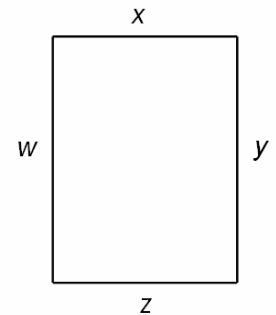
B. Building and Site Design

- (1) Buildings shall be designed with proper provision and orientation for a pedestrianway/skyway system to serve and link the various components of the development.
- (2) Buildings shall be oriented and designed so they do not detract from one another or to unduly restrict views to open space.
- (3) All new buildings shall be designed to positively complement surrounding buildings and enhance the built environment. Elements of complementarity may include, but not be limited to: building form and mass, exterior materials and their appearance and durability, landscaping, exterior lighting and site improvements.
- (4) Buildings constructed after adoption of this Section shall utilize a majority of high-quality, durable materials such as brick, natural or cultured stone or other comparable materials as determined by the Planning Board on each building face that is visible from public areas within the MPD or from off-site. Other high-quality, durable materials that promote building energy efficiency may be approved by the Planning Board as an alternative to this requirement.
- (5) All new buildings shall be visually integrated by utilizing some of the same exterior materials and architectural elements such as roof pitch and window treatments.
- (6) Buildings constructed after adoption of this Section, and any additions to existing buildings, shall not contain an area of blank wall which exceeds the length to height ratio of 3:1 without articulation in the plane of the facade. Articulations include pilasters, windows, corbelled brickwork or another element which creates decorative relief. If the 3:1 ratio is used, each building

wall deviation must be a minimum depth of two feet. If a 2:1 building wall length to height ratio is used, the depth of each building wall deviation may be reduced to one foot.



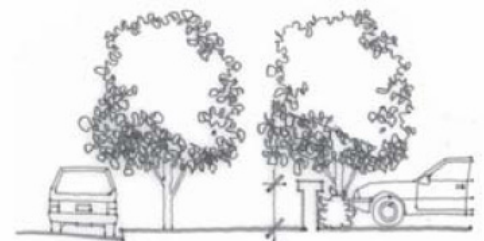
- (7) Buildings constructed after adoption of this Section shall be oriented towards a public or private street, public plaza or open space.
- (8) For a MPD development that contains public or private streets, the average of all block faces within the MPD shall not exceed 500 feet. The average block perimeter of all blocks shall not exceed 2,000 feet, with no block perimeter exceeding 2,400 feet.



Block faces = w, x, y, z
 Block perimeter = $w + x + y + z$

C. Off-Street Parking and Loading

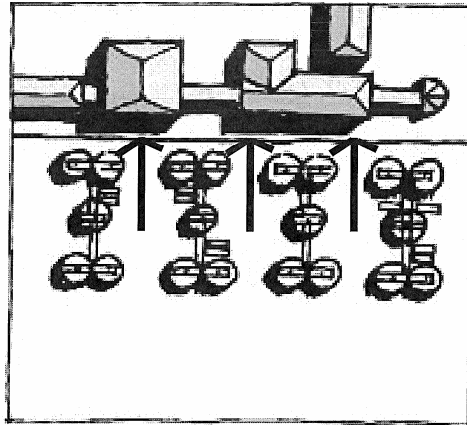
- (1) An Alternative Parking Plan, as described in §7-1-7, may be approved by the Commissioner of Building for a MPD that is deemed to require a different amount of parking than the standards shown in the Schedule of Parking Requirements, §7-1-6. On-street parking may be considered towards required parking spaces as determined by the Commissioner of Building.
- (2) MPDs may reduce the minimum number of off-street parking spaces provided the land so removed is held in reserve in accordance with §7-2-5.
- (3) The visual impact of new surface parking lots shall be minimized and not dominate the building site. The majority of parking lots shall be located to the rear and side of buildings and include direct pedestrian access to the building(s) served. To the greatest extent possible, any parking facing a public street or public space shall be screened from view, either through



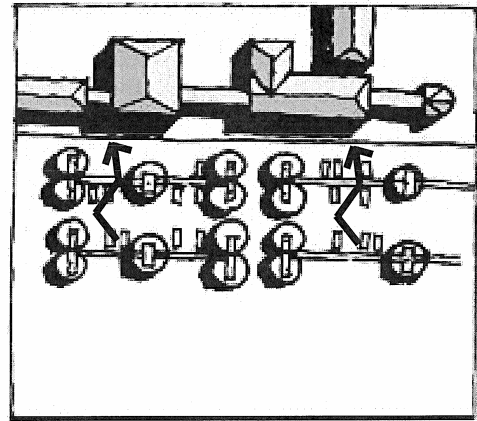
Screening of parking areas

landscaping, masonry wall, or fence.

- (4) Parking spaces shall be well distributed throughout the site. Surface and structured parking facilities shall be located and oriented to provide a maximum walking distance to the main entrance of 400 feet, with the distance measured from the farthest parking space to the main entrance via the shortest pedestrian route.
- (5) To the greatest extent possible, parking access aisles shall be perpendicular to the entry facades of the buildings to minimize conflicting movements between pedestrians and vehicles.



Perpendicular parking access aisles



Parallel parking access aisles

- (6) Exterior lighting in parking lots shall be architecturally integrated with the building style, materials, and colors of the MPD.

D. Dumpster and Loading Area Screening

- (1) All trash handling and loading areas must be interior or utilize architectural screening consisting of the same or complementary exterior facing materials as the principal building.

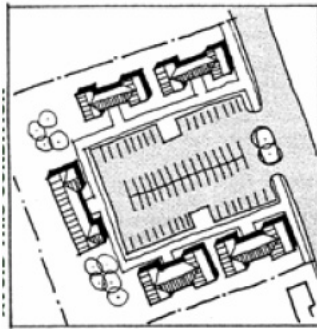
E. Access and Circulation

- (1) Buildings constructed after adoption of this Section shall include sidewalks along all public street rights-of-ways.
- (2) Internal pedestrian links shall be established to provide access to buildings entrances, sidewalks in the public right-of-way, parking, transit, public space and prominent site features.

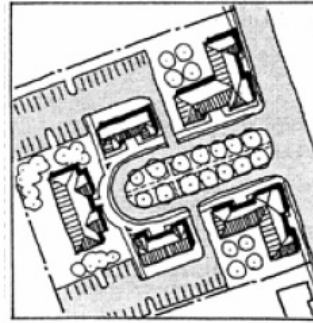
F. Public Space

- (1) MPDs constructed after adoption of this Section shall provide one or more outdoor or indoor public plazas or gathering spaces. The total area of all public plazas must be a minimum of ten percent of the total ground floor building area (including outdoor storage and display area) and shall contain

landscaping, walkways and benches. They may contain a feature element that is thematically linked to the development and the surrounding area.



Less desirable site layout



Desirable site layout: parking is distributed through the site, providing opportunities for public open space

G. Signage

- (1) A sign plan shall be required for all MPDs. The sign plan shall be approved by the Planning Board as part of the final MPD site plan. The types and amount of signage permitted shall be consistent with §7-8. Signage shall generally be integrated with the building style, materials, and colors of the MPD.

6-9-2 Attached Dwellings / Senior Housing

Attached dwellings and senior housing are permitted in the OB district, subject to the following standards.

- A. The housing is part of a mixed use development permitted within the district. The floor area devoted to attached dwellings or senior housing cannot exceed the floor area of office uses.
- B. No dwelling units shall be located below the second story of the building.
- C. The minimum spacing between detached buildings in a multi-building project shall be is at least equal to the average heights of the buildings.
- D. All buildings shall be located a minimum of 15 feet from the back of the curbline of internal private roadways or parking lots.
- E. The density shall not exceed 50 units per acre. The maximum density may be increased by up to 50 percent at the sole discretion of the Planning Board if at least one of the following is provided:
 - (1) At least 80 percent of the required parking is provided in underground or aboveground structures, including all levels of parking ramps.
 - (2) At least 35 percent of the building ground coverage contains structures of five or more stories in height, thereby conserving open space within the development site.

6-9-3 Retail Sales and Service

Retail sales and service are permitted in the OB district subject to the following standards.

- A. Retail sales and service uses are integrated within buildings, are part of a larger development permitted within the district and shall occupy no more than 15 percent of the gross floor area of the principal structures.
- B. All signs shall be integrated with the building design and architecture in terms of the materials and placement of the signs.
 - (1) Permitted signs – All signs permitted under §7-8, except as noted below.
 - (2) Prohibited signs – All signs prohibited under §7-8, and those noted below.
 - (a) Freestanding pole mounted signs.
 - (b) Message center signs.
 - (c) Internally illuminated cabinet or “box” style signs which do not meet the Sign Lighting Standards of this section.
 - (3) **Sign Dimensions**
 - (a) Ground signs shall not exceed five feet in height and 50 square feet in area.
 - (b) Wall sign area shall not exceed one square foot of area per linear foot of building frontage, but shall not be required to be less than ten square feet.
 - (4) **Sign Lighting Standards**

Sign lighting, if provided, shall be employed through one of the following methods:

 - (a) Externally lit – Externally lit with the use of shielded fixtures mounted directly above or below the sign area which directs light at the immediate sign surface, such as with gooseneck lamps.
 - (b) Internally lit channel lettering – Internally lit surface applied channel lettering where the face of each individual letter or logo is the only portion of the sign which is translucent or illuminated.
 - (c) Internally lit cabinet sign – Internally lit cabinet sign where the lettering or logo itself is the only portion of the sign cabinet which is translucent or illuminated, provided that the cabinet is recessed into and flush with the surface of the façade so as to be architecturally integrated with the design.
 - (d) Silhouette – Surface applied channel lettering which is opaque, with an illumination source provided behind the letters to illuminate each individually by silhouette.
- C. Loading areas, access, parking, signage, and building equipment shall be ~~prohibited~~ or minimized next to residential use to the extent practicable in order to ensure compatible development.

6-9-4 Shopping Centers

Shopping centers are permitted in the GB and SC districts, subject to the following standards.

- A. New drive-through facilities shall only be permitted when it can be demonstrated that their operation will not have a significant adverse effect on the internal circulation of the MPD or the level of service of nearby streets and intersections. Such facilities shall also comply with the conditions of §4-8-4 and §7-1-10.
- B. Outdoor storage and display shall only be permitted when it can be demonstrated that such use can be aesthetically integrated into the MPD site design and shall comply with the conditions set forth in §7-4, and with the following additional conditions:
 - (1) The size of the outdoor storage and display areas may be no greater than 30 percent of the ground floor building area of the associated principal uses and may be further restricted as deemed appropriate to the scale of the MPD and associated indoor uses.
 - (2) Screening shall be required around the entire outdoor storage or display area and shall utilize the same or complementary exterior materials as the principal building; landscaping may also be required to supplement the appearance of the screening and diminish views of the area from surrounding properties.
 - (3) No outdoor storage or display items other than plant materials may extend above the height of the screening.
 - (4) Any temporary or permanent buildings associated with the outdoor storage or display area must be architecturally integrated with the principal buildings and approved as part of the MPD.
- C. All stores that provide shopping carts shall include interior cart storage areas. Within parking lots, the temporary storage of shopping carts shall be in cart corrals. Other outdoor shopping cart storage areas shall be screened by utilizing architectural screening of the same exterior materials as the principal building.

§8-7 Site Plan Review

8-7-1 Applicability

- A. In accordance with §274-a of NYS Town Law no construction or site improvement work may commence until site plan approval, where required, has been granted.
- B. Site plan review shall not be required for development of two or fewer single- or two-family lots except in the NCD district.
- C. The addition of residential units to a mixed use development shall be regulated by the provisions for residential units.

8-7-2 Initial Site Plans for New Development

An initial site plan for new development shall be submitted in accordance with the following table.

Type of Development	Major Site Plan	Minor Site Plan	MPD Site Plan
RESIDENTIAL			
Up to 4 Residential Units Proposed construction of 3 or 4 residential units (If proposed single family lots result in the subdivision of a parcel into 5 or more lots within a 3-year period, see Town of Amherst Subdivision Regulations) Site plan review shall not be required for development of one or two single-family lots, except in the NCD district		✓	
5 or More Residential Units Proposed construction of 5 or more residential units (If 5 or more residential lots are proposed, see Town of Amherst Subdivision Regulations)	✓		
SEQRA Type 1 Action Any proposed residential development classified as a Type 1 action under Town Code, Chapter 104, Environmental Quality Review, as amended.	✓		
NONRESIDENTIAL			
Within 250 Feet of Residential Proposed nonresidential or mixed-use development located within 250 feet of residential use or zoning	✓		
Under 4,000 SF Nonresidential or mixed-use development of less than 4,000 square feet of gross floor area and beyond 250 feet from a residential lot boundary		✓	
Under 4,000 SF Nonresidential or mixed-use development of less than 4,000 square feet of gross floor area and within 250 feet of a residential lot boundary	✓		
Over 4,000 SF Nonresidential or mixed-use development of greater than 4,000 square feet of gross floor area of all buildings	✓		
SEQRA Type 1 Action Any proposed nonresidential or mixed use development classified as a Type I action under Town Code, Chapter 104, Environmental Quality Review, as amended.	✓		
MASTER PLANNED DEVELOPMENT			✓

8-7-3 Modification to a Previously Approved Site Plan

- A. A previously approved site plan shall be modified in accordance with the following table [Amended 2-4-08 by L.L. No. 1-2008 and 9-21-09 by L.L. No. 14-2009].

Type of Development	Major Site Plan	Minor Site Plan	MPD Site Plan	Minor Adjustment
RESIDENTIAL				
Adding 4 or Fewer Residential Units Addition of 4 or fewer residential units not on an individual lot		✓		
Adding 5 or More Residential Units Addition of 5 or more residential units not on an individual lot	✓			
Multifamily Landscape Plan Modifications to approved landscape plan for a multi-family residential development				✓
Adding Accessory Structures Proposed accessory structures, such as A/C compressors, generators, tool or garden sheds, decks and gazebos				✓
NONRESIDENTIAL / MASTER PLANNED DEVELOPMENT				
Adding Less Than 750 Square Feet [Added 2-4-08 by L.L. No. 1-2008] Proposed addition of less than 750 square feet of gross floor area		✓		
Adding Between 750 and 4,000 Square Feet [Amended 2-4-08 by L.L. No. 1-2008] Proposed addition of between 750 and 4,000 square feet of gross floor area and within 250 feet of a residential lot boundary	✓			
Adding Less Than 4,000 Square Feet Proposed addition of 4,000 square feet or less of gross floor area and greater than 250 feet from a residential lot boundary		✓		
Adding More Than 4,000 Square Feet Proposed addition of more than 4,000 square feet	✓			
Changes to Parking, Loading, Stacking or Dumpsters Any proposed changes to parking, loading or stacking, or dumpsters, located more than 250 feet from residential use or district. Changes to parking, loading or stacking, or dumpsters located within 250 feet of residential use or district may require a major site plan at the discretion of the Planning Director		✓		
Adding Accessory Structures Accessory structures, such as generators, RPZ's, tool sheds, HVAC equipment, hot boxes, transformers, or compressors		✓		
Minor Adjustment [Amended 2-4-08 by L.L. No. 1-2008] Proposed modification to an approved landscape plan to preserve existing mature trees and/or vegetation or change proposed plant species or the relocation of underground utilities where such modifications are determined by the Planning Director to be consistent with the intent and objectives of the original site plan				✓
Other [Added 9-21-09 by L.L. No. 14-2009] A proposed modification to a previously approved site plan where such modification is not included in any of the other categories in this section.				✓
Adding Less Than 10,000 Square Feet in a Master Planned Development Proposed addition of less than 10,000 square feet of gross floor area in a Master Planned Development		✓		
Application of MPD Site Plan Process to Existing Development As permitted in OB, GB, and SC districts			✓	

- B. No site plan review shall be required for improvements on an existing single- or two-family lot created as part of a site plan, except in the NCD district.

- C. Notwithstanding the requirements in the table in §8-7-3, a major site plan may be required if the Planning Director determines that the proposed modifications are not consistent with the intent and objectives of the original site plan approval or generally consistent with the policies of the Comprehensive Plan.

8-7-4 Application Requirements

- A. An application for site plan review shall be submitted in accordance with §8-2-2, Application Requirements.
- B. All applications shall be complete in accordance with §8-2-2D before the Planning Director is required to review the application. An application shall not be considered complete until a SEQR determination under Town Code, Chapter 104, Environmental Quality Review, as amended, can be made.
- C. The site plan shall be prepared by a NYS licensed engineer, architect, landscape architect, or surveyor, as appropriate. This requirement shall not apply to a Preliminary MPD site plan.
- D. The content of the site plan application shall be approved by the Planning Director prior to filing.

8-7-5 Minor Site Plan Approval

- A. A minor site plan requires only Planning Director approval.
- B. Within 30 days of receipt of a complete application, the Planning Director shall, after receiving recommendations from the Town's review agencies and any appropriate reviewing agencies, approve, approve with modifications, or deny the site plan. Where a site plan does not meet the requirements of this Ordinance, the Planning Director shall refer said site plan to the Planning Board for their review.
- C. The Planning Director may grant minor site plan approval with conditions only to the extent that such conditions specify the actions necessary to bring the application into complete compliance with applicable regulations or where additional conditions have been agreed to by the petitioner. If the proposed minor site plan is determined to be consistent with all applicable regulations, the Planning Director shall approve the minor site plan.
- D. The Planning Director shall have sole authority in determining the compliance of a minor site plan with the provisions of this Ordinance and generally consistent with the policies of the Comprehensive Plan.

8-7-6 Major Site Plan Approval

A major site plan shall require Planning Board approval.

A. Action by the Planning Director

Within 30 days of receipt of a complete application, and after receiving recommendations from the appropriate reviewing agencies, the Planning Director shall notify the Planning Board in writing of any comments or recommendations on the action.

B. Action by the Planning Board

- (1) The Planning Board shall schedule a public hearing within 62 days of receipt of a complete application and give notice in accordance with §8-2-3, Notice and Public Hearings. Within 62 days of the close of the public hearing, the Planning Board shall act on it and notify the appropriate agencies, petitioner and Town Clerk of its action.
- (2) The time within which the decision shall be rendered may be extended by mutual consent of the petitioner and the Board.
- (3) In determining its action, the Planning Board may seek advice from the agencies it deems appropriate.
- (4) In determining its action, the Planning Board shall also seek advice and assistance from the Town Attorney with respect to all covenants, restrictions and easements to be recorded and covenants for maintenance; the Town Engineer and Highway Superintendent with respect to improvements plans; the Commissioner of Building with respect to building plans and any other persons or committees.

8-7-7 Master Planned Development Site Plan Approval

A. General Intent

To permit greater flexibility in the development of a parcel by tailoring the development to the site, surrounding context and neighborhood based on the following principles and the goals and objectives of the Comprehensive Plan:

- (1) A flexible approach to development is permitted by allowing certain limited modifications to the strict application of regulations of the use districts that are in harmony with the goals, purpose and intent of the Town's Comprehensive Plan and this section;
- (2) A more creative and efficient use of land;
- (3) Flexibility in the design and construction is allowed for development in cases where large tracts of land are under single ownership or control and have the potential to significantly affect adjacent or nearby properties;
- (4) Flexibility for infill and the redevelopment of sites not otherwise practical under conventionally designed development.
- (5) Cohesive building design that employs the use of good design principles and features quality, durable materials and attractive buildings that enhance property values and promote an aesthetic development character;
- (6) Allowing the development to operate in concert with a redevelopment plan in certain areas of the Town and to ensure the redevelopment goals and objectives will be achieved;
- (7) Preserve and enhance desirable site characteristics;
- (8) More efficient and effective use of streets, utilities, and public facilities to shape and support high-quality development at a lesser cost;

- (9) Promote connectivity that provides multiple mobility options, including vehicular, pedestrian, and transit accommodations, as applicable;
- (10) Provision of recreational and public spaces which may be made more usable and accessible than would otherwise be provided under conventional development procedures;
- (11) Greater utilization of new technologies and best practices in building design, construction, and land development;
- (12) A compatible and integrated mix of uses, such as retail, commercial, office, residential, civic, cultural and educational, that support functional, attractive and livable neighborhoods, districts and activity centers; and
- (13) Land uses and activities related to adjacent and surrounding uses and public spaces as appropriate and/or establish development character and pattern as envisioned in the Comprehensive Plan.

B. Applicability

- (1) A MPD shall only be approved on property located in the OB, GB and SC districts in the area of the Town bounded by Niagara Fall Boulevard to the west, Ellicott Creek to the north, North Forest Road / South Forest Road to the east, and the Town boundary to the south.
- (2) Approval of a MPD shall not alter the underlying use district classification or the application of district regulations and the general development standards of Section 7 unless they are waived under the terms of §8-7-7 C.
- (3) Projects available for a MPD shall have a site which consists of a parcel or contiguous parcels of land two acres or more in size. Eligible parcels that are located in the –TNB overlay district shall either comply with all requirements of the overlay or undergo a MPD site plan review. Tracts of less than two acres may be approved only if the petitioner can demonstrate that a project of superior design can be achieved or that greater compliance with Comprehensive Plan goals and policies can be attained through use of the MPD site plan process. This exception does not apply to the –TNB overlay district.
- (4) More than one building may be placed on one lot in a MPD.
- (5) Developed properties existing prior to the approval of the MPD provisions which seek approval of a modification to a previously approved site plan shall be exempted from the requirement to undergo a MPD site plan process for the following modifications:
 - (a) Addition of less than 25% of total gross floor area square footage
 - (b) Changes to parking, loading, stacking or dumpsters
 - (c) Addition of accessory structures
 - (d) Minor or other adjustments as defined in §8-7-3

C. Permitted Waivers

- (1) Waivers of use district regulations or general development standards may be approved as part of a MPD site plan by the Planning Board, if the following conditions are satisfied:
 - (a) The waivers achieve specific policies or actions that are consistent with the goals and policies of the Comprehensive Plan;
 - (b) Any adverse impact and effect of such waivers shall be mitigated by screening, landscaping, superior site and building design and other features related to planning, design and construction.
 - (c) The waiver is necessary to achieve the purposes of this section; and
 - (d) The waivers are limited to those allowed in §8-7-7C(3) .
- (2) Waivers granted as part of a MPD shall not be subject to the provisions of §8-13. Such waivers shall be approved as part of the overall approval of a MPD site plan and be written into the resolution approving the MPD.
- (3) Any waiver approved as part of a MPD shall not exceed the maximum modification as shown in the table below.

Development Standard	Maximum Waiver Allowed
<u>Required setbacks, except where abutting residentially zoned property</u>	<u>No required setbacks</u>
<u>Building height</u>	<u>May be exceeded if parking is provided in a parking structure or other building features are provided that increase energy efficiency. Building height shall not exceed 100 feet.</u>
<u>Landscaping</u>	<u>The Planned Development shall comply with the following sections of §7-2 of the Zoning Ordinance (Landscaping, Buffers and Screening):</u> <ul style="list-style-type: none"> o <u>§7-2-1, Purpose</u> o <u>§7-2-2B of the General Provisions</u> o <u>§7-2-3A(1), General Requirements (a) and (c) through (g),</u> o <u>§7-2-4 [Buffers and Screening] C and D</u> o <u>§7-2-5 through §7-2-7</u> <u>The balance of the requirements of §7-2 may be waived.</u>
<u>Parking</u>	<u>As determined by Alternative Parking Plan (§7-1-7)</u>

- (4) Petitioners seeking waivers as specified in §8-7-7C(3) shall demonstrate how the project will enhance, support and further some or all of the following objectives:
 - (a) Provide for integrated pedestrian facilities to and within the project;

- (b) Enhance linkages to public transportation facilities;
- (c) Increase the supply and diversity of housing choices in the Town;
- (d) Provide public plazas and designed outdoor recreation areas which exceed minimum requirements; and
- (e) Provide a high degree of aesthetics through overall design and display of public art.

D. Master Planned Development Concept Plan and Preliminary Plan

- (1) Before filing an application for approval of a MPD, a petitioner is required to submit a Concept Plan for review and comment by the Planning Department staff. Within 15 days of receipt of a complete Concept Plan, the Planning Director shall notify the petitioner in writing of any comments or recommendations on the Plan, unless extended by mutual consent of the petitioner and the Planning Director. Upon consideration of Department comments, the petitioner may elect to submit a Preliminary MPD site plan for review.
- (2) The Preliminary MPD site plan will refine the Concept Plan and depict project location, site layout, architectural and building features and a proposed circulation plan necessary to enable the Planning Board, Town Departments and other agencies to determine if the proposed site plan and layout are consistent with the land use and development policies of the Comprehensive Plan and redevelopment objectives. The Preliminary MPD site plan does not commit the Planning Board to a definite course of future decisions.
- (3) **Action by the Planning Director**
Within 62 days of receipt of a Preliminary MPD site plan determined to be satisfactory, and after receiving recommendations for the appropriate reviewing agencies, the Planning Director shall notify the petitioner in writing of department and agency comments or recommendations on the petition.
- (4) **Action by the Planning Board**
 - (a) Following receipt of the Planning Department's report on department and agency comments, the Planning Board will review the Preliminary MPD site plan with the petitioner.
 - (b) The time within which a decision on the MPD site plan shall be rendered may be extended by mutual consent of the petitioner and the Board.
 - (c) In determining its action, the Planning Board may seek advice from any agencies it deems appropriate.
 - (d) In determining its action, the Planning Board shall seek advice and assistance from the Town Attorney with respect to all covenants, restrictions and easements to be recorded and covenants for maintenance; the Town Engineer and Highway Superintendent with

respect to improvement plans; the Commissioner of Building with respect to building plans and any other persons or committees.

- (e) Following their review of the Preliminary MPD site plan, the Planning Board may grant its non-binding endorsement of the Plan in whole or in part, with or without conditions, may deny; or may continue consideration of the Preliminary MPD site plan at a later date.

E. Final Master Planned Development Plan

- (1) The Final MPD site plan shall be submitted for approval within 90 days after the Planning Board's non-binding recommendation of the Preliminary MPD site plan, unless extended by mutual consent of the petitioner and the Board. The Final MPD site plan shall respond to the Planning Board's recommendations on the Preliminary MPD site plan.
- (2) **Action by the Planning Director**
Within 30 days of receipt of a complete application, and after receiving recommendations from the appropriate reviewing agencies, the Planning Director shall notify the Planning Board in writing of any comments or recommendations on the action.
- (3) **Action by the Planning Board**
 - (a) The Planning Board shall consider the Final MPD site plan. The Planning Board shall schedule a public hearing within 62 days of receipt of an application determined to be satisfactory and give notice in accordance with §8-2-3, Notice and Public Hearings. Within 62 days of the close of the public hearing, the Planning Board shall act on the Final MPD site plan and notify the appropriate agencies, petitioner and Town Clerk of its action. These time periods may be altered as a result of SEQR requirements.
 - (b) The Board shall consider staff recommendations, other applicable data and testimony. The Board may deny the Final MPD site plan or may approve the Final MPD site plan in whole or in part or may approve subject to conditions. Conditions may include such components as architectural and design guidelines, parking requirements, circulation and access requirements, landscape and buffer treatments, yard, area and bulk requirements, public art guidelines, a coordinated sign plan, and any other requirements as agreed to by the petitioner and the Planning Board. If the Board approves the Final MPD site plan, it shall find that the Final MPD site plan is in substantial compliance with the Preliminary PD site plan and the Comprehensive Plan. The Board shall make its decision within 60 days of its first consideration of the Final MPD site plan or within 60 days following any public hearing, whichever date is later.

F. Conditions

The Planning Board may, at its sole discretion, require the petitioner to execute development conditions with a Resolution of Approval of a Final MPD site plan. The resolution with conditions is a binding agreement between the Town and the

petitioner, or its successors, which memorializes all design and use requirements and conditions and serves as the guide for development of the MPD.

G. Common Area Operating and Maintenance Requirements

(1) If certain land areas or structures within the MPD are designated for public use or service facilities, the owner of such land and buildings shall file an agreement with the Town that ensures the continued operation and maintenance of such areas or facilities in a manner acceptable to the Town. These areas or structures may be placed under the ownership and control of one of the following:

(a) The landlord;

~~(b)~~ Homeowners' association, complying with all applicable New York State laws.

H. Approved Waivers

Waivers granted as a part of a MPD shall have the same force and effect as a variance granted under §8-13. These waivers, if permitted as a part of the approval of a MPD, shall be cited in the conditions.

I. Action Following Final Plan Approval

No building permit shall be issued or development shall occur on land for which a MPD has been approved which does not conform to the approved final plan.

J. Subsequent Amendment of an Approved MPD Site Plan, Phasing and Validity

All amendments or changes to an approved Final MPD site plan, its development phasing, and period of validity must comply with the approved Resolution of Approval with conditions and adhere to the requirements of §8-7 (Site Plan Review).

8-7-8 Site Plan Review Criteria

During review of a minor or major site plan the Planning Director or Planning Board, as applicable, shall ensure that the site plan is consistent with this Ordinance and generally consistent with the policies of the Comprehensive Plan.

8-7-9 Additional Review Criteria for Residential Site Plans

When reviewing a minor or major residential site plan, the Planning Director or Planning Board, as applicable, shall consider the following factors in addition to those described in §8-7-8:

- A. The adequacy of usable space for active and passive recreation including pedestrian connections;
- B. Adequacy of open space lands for public ownership and use offered for dedication or other disposition to the town or other public entity; and
- C. Adequacy of school sites and facilities.
- D. The extension of roadways provided to adjacent property.

8-7-10 Additional Review Criteria for Master Planned Development Site Plans

When reviewing a MPD site plan, the Planning Board shall consider the following factors in addition to those described in §8-7-8:

- A. The design shall consider the whole of the project and shall create a unified environment within project boundaries by ensuring architectural complementarity of structures, efficient vehicular and pedestrian circulation, aesthetically pleasing landscape and site features, and efficient use of utilities.
- B. The design of a MPD shall achieve the maximum complementarity of the project with surrounding land uses, both existing and proposed.
- C. The design shall minimize the potential adverse impacts of the MPD on surrounding land uses and the potential adverse effects of the surrounding land uses on the MPD.
- D. The design shall take into account any modifications of requirements permitted by §8-16-4 and provide appropriate solutions to mitigate the adverse impacts of any modification required for approval of the MPD.
- E. If a project for which MPD treatment has been proposed to be phased over a period of time, the petitioner shall demonstrate that each phase is capable of addressing and meeting these criteria independent of the other phases.

8-7-11 Findings for Site Plan Approval

- A. In rendering a final decision, the Planning Director or Planning Board, as applicable, shall consider and make findings that:
 - (1) The proposed site plan is consistent with the development plan if one is required.
 - (2) The proposed site plan is consistent with the purpose and specific requirements of this Ordinance and generally consistent with the policies of the Comprehensive Plan;
 - (3) Adequate services and utilities will be available prior to occupancy; and
 - (4) The site plan is consistent with all other applicable laws.

8-7-12 Approval with Conditions

The Planning Board may grant approval with conditions only to the extent that such conditions specify the actions necessary to bring the application into complete compliance with applicable regulations and the policies of the Comprehensive Plan or where additional conditions have been agreed to by the petitioner.

8-7-13 Notice of Decision

In accordance with NYS Town Law §274(a), the decision of the Planning Board or Planning Director, as applicable, shall be filed in the Office of the Town Clerk consistent with all applicable state requirements.

8-7-14 Changes in Site Plan

- A. At any time within 30 days following the initial site plan submission to the Planning Director, the petitioner may submit to the Planning Director site plan modifications which do not materially affect the fundamental character of a proposed site plan, and the time periods stated in this Section shall continue to apply.
- B. If, subsequent to the approval of a site plan by the appropriate authority, the petitioner proposes any modification (other than to correct minor or technical omissions or inaccuracies) of the site plan, the procedures set forth in §8-2-2, Application Requirements, shall be applicable to such modification, except that the materials submitted to the Planning Director shall relate only to such modification.
- C. Minor modifications to the site plan may be approved by the Planning Director. Minor modifications include:
 - (1) Error correction that does not alter the site plan.
 - (2) Modifications that are not in violation of this Ordinance
 - (3) Changes that do not affect overall site layout or properties outside of the site.
 - (4) Changes that are of a lesser intensity than those listed in the table in §8-7-3A.

8-7-15 Subdivision Review

Site plan review under the provisions of this ordinance may occur simultaneously with subdivision plat review, where required. A single public hearing for approval of the site plan and its associated plat shall be permitted, as determined by the Planning Director.

8-7-16 Development Phasing

- A. If the development is to be implemented in phases, each phase shall have adequate provision for access, parking, open space, recreation areas and stormwater management and other public improvements to serve the development in accordance with the applicable criteria in the event that other phases are not constructed.
- B. Each phase shall be provided with temporary or permanent transitional features, buffers or protective areas in order to prevent damage to completed phases, to future phases and to adjoining property. ^{Rev 9/09}
- C. For developments which are developed in phases, construction of all phases of the development as shown on the approved site plan for that development shall be commenced within five years from the date of that site plan approval. If construction of all phases of a development is not commenced within five years from the date of site plan approval, the phased development is thereafter required to obtain site plan approval in accordance with the current requirements of this Ordinance in effect at the time of the next phase of development for all undeveloped phases of the original site plan. Construction of all phases of a development shall be deemed to have commenced when building permits have been obtained and construction has started for all buildings shown on the approved site plan.

8-7-17 Period of Validity

Except for subdivision plans that have been duly filed in the Office of the County Clerk, if construction of the approved development has not commenced within two years from the time of site plan approval, that approval shall be deemed revoked. Extensions not to exceed two years may be granted by the Planning Board [Amended 2-4-08 by L.L. No. 1-2008].