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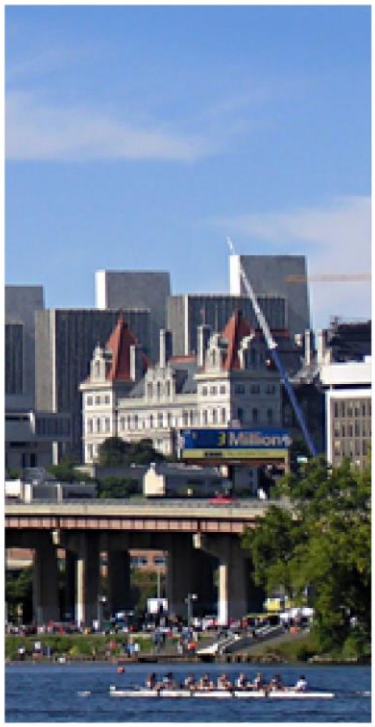

ALBANY, NEW YORK

April 2017

rezone ALBANY
A Vibrant City Initiative

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Section 375-1 GENERAL PROVISIONS

(A) SHORT TITLE

This Chapter shall be known and cited as the "City of Albany Unified Sustainable Development Ordinance" or "USDO."

(B) PURPOSE

This USDO is adopted in order to:

(1) Implement the policies of the adopted Comprehensive Plan, as may be amended from time to time;

(2) Promote economic reinvestment in the City;

(3) Protect and preserve the City's residential neighborhoods;

(4) Promote energy conservation and low impact development, and environmentally sensitive development;

(5) Secure safety from fire, floodwaters, panic, and other dangers;

(6) Facilitate the provision of adequate transportation, water, sanitary and sewers, schools, parks, and other community facilities needed to serve new and existing development;

(7) Promote, preserve, and encourage the aesthetic quality and reinforce the historic urban form and fabric of the City; and

(8) Promote the public health, safety, and general welfare.

(C) AUTHORITY

This USDO is enacted pursuant to authority granted by the Albany City Charter, Articles 2-A, 3, & 5-A of the New York State General City Law, Articles 5-G, 5-J & 5-K of the New York State General Municipal Law, the New York State Municipal Home Rule Law, and the New York State Statute of Local Governments.

(D) APPLICABILITY

(1) This USDO shall apply to all land, buildings, structures, and uses of land, buildings, and structures in the City, unless an exemption is provided by or granted pursuant to the terms of this USDO.

(2) Unless otherwise provided in this USDO, no building or land shall be used or occupied, and no building or structure or part of a building or structure shall be erected, moved or altered, except in conformity with the USDO regulations for the district and any overlay district in which it is located.

(3) No building shall be erected or altered to exceed the height, accommodate or house a greater number of families, accommodate a larger or more intense land use than is permitted, occupy a greater percentage of lot area or have narrower or smaller rear yards, front yards, side yards, inner or outer courts than is permitted by this USDO for the district and any overlay district in which the building is located.

(4) No part of a yard or other open space around any building required for the purpose of complying with the provisions of this USDO shall be included as a part of the yard or other open space similarly required for another building.

(E) EFFECTIVE DATE AND TRANSITION

(1) EFFECTIVE DATE

This USDO shall be effective on June 1, 2017.

(2) VIOLATIONS CONTINUE

Any violation of the previous City of Albany Zoning Ordinance shall continue to be a violation under this USDO and shall be subject to the penalties and enforcement set forth in Section 375-5(G) (Enforcement and Penalties), unless the use, development, construction, or other activity complies with this USDO. Payment is required for any penalty assessed under the previous ordinance, even if the original violation is no longer considered a violation under this USDO.

(3) USES, STRUCTURES, AND LOTS RENDERED CONFORMING

A use, structure, or lot that was legally nonconforming at the time of the adoption of this USDO will be deemed lawful and conforming as of the effective date of this USDO if it conforms to all requirements of this USDO.

(4) USES, STRUCTURES, AND LOTS RENDERED NONCONFORMING

(a) When a building, structure, or lot is used for a purpose that was a lawful use before the effective date of this USDO, and this USDO no longer classifies such use as an allowed use in the zoning district in which it is located, such use shall be considered nonconforming and shall be controlled by Section 375-5(F) (Pre-existing Development and Nonconformities).

(b) Where any building, structure, or lot that legally existed on the effective date of this USDO does not meet all standards set forth in this USDO, such building, structure, or lot shall be considered nonconforming and shall be controlled by Section 375-5(F) (Pre-existing Development and Nonconformities).

(5) APPLICATIONS COMMENCED OR APPROVED UNDER PREVIOUS ORDINANCES

(a) PENDING APPLICATIONS

(i) Any complete application that has been submitted for review, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this USDO, shall be reviewed in accordance with the applicable provisions of

the Albany zoning ordinance and subdivision regulations in effect on the date the application was deemed complete. If the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the requirements of this USDO. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.

(ii) An applicant with a complete application that has been submitted for approval, but where no final action has been taken prior to the effective date of this USDO, may submit a written request to the Chief Planning Official to have the application reviewed under this USDO.

(b) Approved Projects

Permits, development plans, building permits, and variances that are valid on the effective date of this USDO shall remain valid until their expiration date. Projects with valid approvals or permits shall be completed pursuant to the development standards in effect at the time of approval. If the approval or permit (including any extensions of time permitted and approved under the prior zoning ordinance and/or subdivision regulations) expires, future development shall comply with the requirements of this USDO.

(F) Official Zoning Map

The location and boundaries of the zoning districts established by this USDO are shown on the official Zoning Map, which is hereby incorporated into the provisions of this USDO. The Zoning Map, including all amendments, shall be the latest electronic version of the Map as amended by Common Council. All form-based district regulating plans contained within this USDO are part of the Zoning Map. The Chief Planning Official shall keep the Zoning Map up-to-date as changes and amendments are made.

(G) Interpretation

The Chief Planning Official shall be authorized to interpret the provisions of this USDO, including but not limited to the location of zoning district boundary lines, unless a different City official is specifically designated in this USDO to make a particular interpretation. The decisions of the Chief Planning Official are subject to appeal to the Board of Zoning Appeals. An applicant may request a formal written interpretation of this USDO be made by the Board of Zoning Appeals.

(H) Relationship to Other Regulations

If provisions of this USDO are inconsistent with one another, with provisions of other adopted codes or ordinances of the City, or with provisions of applicable county, state, and federal laws, the more restrictive provision shall govern to the extent permitted by law. However, if standards in an overlay zoning district conflict with other provisions of this USDO, or with provisions of other adopted codes of ordinances of the City, the provisions of the overlay zoning district shall apply regardless of whether they are more restrictive or more permissive than the standards with which they conflict.

(I) Relationship to Private Agreements and Covenants

Nothing in this USDO is intended to supersede, annul, or interfere with any easement, covenant, or other agreement between private parties, but such private agreements shall not excuse any failure to comply with this USDO. The City shall not be responsible for enforcing private agreements.

(J) Definitions

Definitions and Rules of Construction used in this USDO are in Section 375-6 (Definitions and Rules of Construction).

(K) Severability

If any clause, sentence, paragraph, section or part of this USDO shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. Without affecting this general statement, each section of the sign regulations in Section 375-4(I) (Signs) are specifically severable, and the invalidity of any regulation in that section shall not affect the validity or enforceability of other regulations in that section.

Section 375-2 ZONING DISTRICTS

(A) ZONING DISTRICTS ESTABLISHED

The zoning districts listed in Section 375-2(B), Summary Table of Zoning Districts, are hereby created. These districts shall have the boundaries shown on the official Zoning Map maintained by the Albany Planning Department and available on the City of Albany's website.

(B) SUMMARY TABLE OF ZONING DISTRICTS

The following table shows the zoning districts created by this USDO.

Table 375-2-1 Summary Table of Zoning Districts
Base Zoning Districts
Residential
R-1L Single-Family, Low-Density
R-1M Single-Family, Medium-Density
R-2 Two-Family
R-T Townhouse
R-M Multi-Family
R-V Residential Village
Mixed-Use
MU-NE Mixed-Use Neighborhood Edge
MU-NC Mixed-Use Neighborhood Center
MU-CU Mixed-Use Community Urban
MU-CH Mixed-Use Community Highway
MU-CI Mixed-Use Campus/Institutional
MU-DT Mixed-Use Downtown
MU-FW Mixed-Use, Form-Based Warehouse
MU-FC Mixed-Use Form-Based Central Avenue
MU-FS Mixed-Use Form-Based South End
MU-FM Mixed-Use Form-Based Midtown
Special Purpose
I-1 Light Industrial
I-2 General Industrial
LC Land Conservation
Overlay Districts
HR-O Historic Resources Overlay
AR-O Archaeological Resources Overlay
FP-O Floodplain Overlay
CS-O Combined Sewer Overflow Overlay
PB-O Pine Bush Overlay
NK-O Normans Kill Overlay
AC-O Albany-Colonie Intermunicipal Overlay

(C) RESIDENTIAL DISTRICTS

(1) R-1L SINGLE FAMILY, LOW-DENSITY

(a) CONCEPT

(b) PURPOSE

The purpose of the R-1L district is to provide for neighborhoods of low density, single-family residences on medium to large lots. Limited recreational, educational, and other neighborhood support uses are permitted as shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-2: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

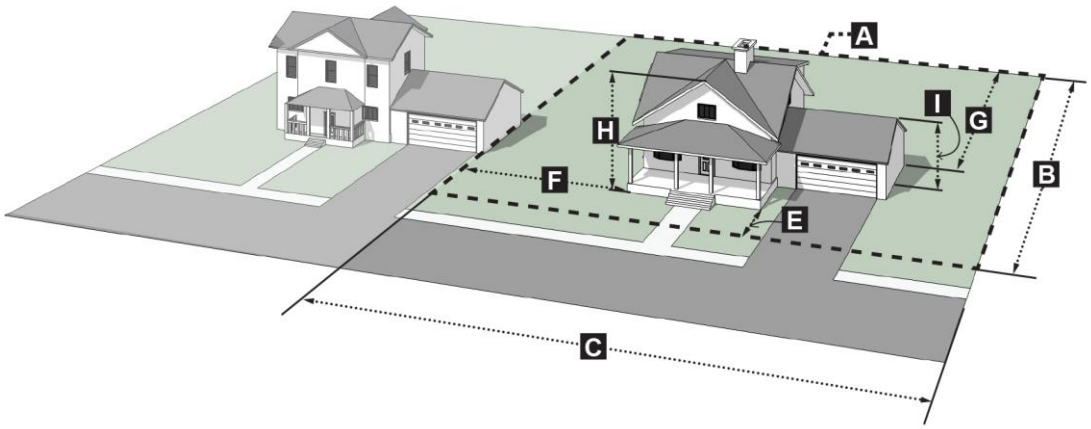


Table 375-2-3: R-1L Single-Family, Low-Density See Section 375-4(A) for more details		
Development Type		
Lot Standards		
A	Lot area, minimum	6,500 sq. ft.
B	Lot depth, minimum	110 ft.
C	Lot width, minimum	General: 70 ft. Infill: See Table 375-4-1
D	Impervious lot coverage, maximum	30%
Setbacks		
E	Front, minimum	General: 25 ft. Infill: See Table 375-4-1
F	Side, minimum	5 ft. on 1 side; 20 ft. on 2 sides combined
G	Rear, minimum	40 ft.
Building Standards		
H	Height, principal building, maximum	2 ½ stories
I	Height, accessory buildings, maximum	1 ½ stories
	Number of dwelling units, maximum	1

(d) DISTRICT STANDARDS

(i) NONRESIDENTIAL USES

No primary nonresidential use shall operate before 8:00 am or after 10:00 pm.

(2) R-1M SINGLE-FAMILY, MEDIUM-DENSITY

(a) CONCEPT

(b) PURPOSE

The purpose of the R-1M district is to provide for neighborhoods of single-family residences on smaller, individual lots. Limited recreational, educational, and other neighborhood support uses are permitted as shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-4: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

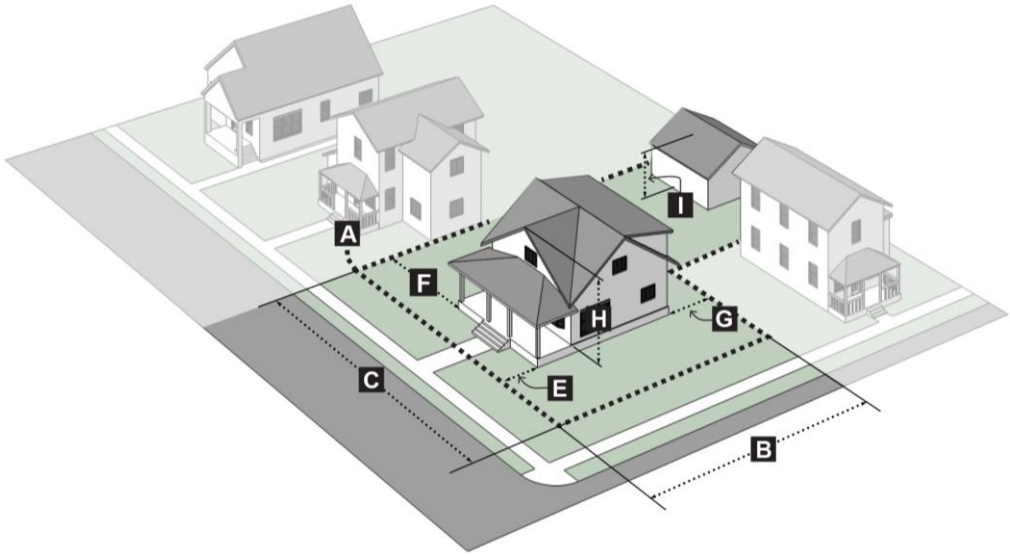


Table 375-2-5: R-1M Single-Family, Medium-Density See Section 375-4(A) for more details		
Lot Standards		
A	Lot area, minimum	3,500 sq. ft.
B	Lot depth, minimum	100 ft.
C	Lot width, minimum	General: 40 ft. Infill: See Table 375-4-1
D	Impervious lot coverage, maximum	40%
Setbacks		
E	Front, minimum	General: 15 ft. Infill: See Table 375-4-1
F	Side, minimum	3 ft. from principal building on abutting lot 1 side; 10 ft. on 2 sides combined
G	Rear, minimum	25 ft.
Building Standards		
H	Height, principal building, maximum	2 ½ stories
I	Height, accessory buildings, maximum	1 ½ stories
	Number of dwelling units, maximum	1

(d) DISTRICT STANDARDS

(i) NONRESIDENTIAL USES

A. No primary nonresidential use shall operate before 8:00 am or after 10:00 pm.

B. A structure that was originally designed and constructed for a nonresidential use may be occupied for any use in the "Residential" or "Civic and Institutional" categories in Table 375-3-1 (Permitted Use Table) upon the issuance of a Conditional Use Permit.

(3) R-2 TWO-FAMILY

(a) CONCEPT

(b) PURPOSE

The purpose of the R-2 district is to provide for neighborhoods containing a blend of single-family and two-family residences on a variety of medium to small individual lot sizes. Limited recreational, educational, and other neighborhood support uses are permitted as shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-6: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

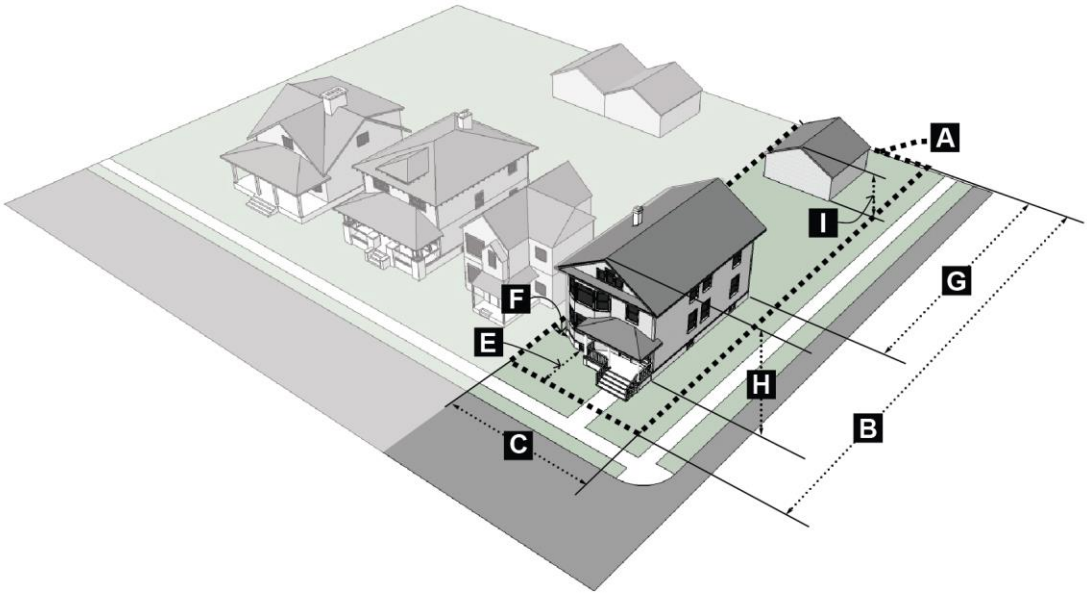


Table 375-2-7: R-2 Two-Family See Section 375-4(A) for more details		
Lot Standards		
A	Lot area, minimum	2,250 sq. ft.
B	Lot depth, minimum	90 ft.
C	Lot width, minimum	General: 25 ft. Infill: See Table 374-4-1
D	Impervious lot coverage, maximum	70%
Setbacks		
E	Front, minimum	General: 10 ft. Infill: See Table 374-4-1
F	Side, minimum	3 ft. from principal building on abutting lot 1 side; 10% of lot width on 2 sides combined
G	Rear, minimum	20% of lot depth
Building Standards		
H	Height, principal building, maximum	2 ½ stories
I	Height, accessory buildings, maximum	1 ½ stories
	Number of dwelling units, maximum	2

(d) DISTRICT STANDARDS

(i) NONRESIDENTIAL USES

A. No nonresidential use shall operate before 8:00 am or after 10:00 pm.

B. Portions of the ground or basement floor of a residential structure that were physically constructed or adapted to accommodate nonresidential uses (for example, through an addition extending closer to the sidewalk than the original façade of the building, or through the installation of display windows) before January 1, 2015, may be used for the following uses, but the area devoted to such uses may not be expanded beyond the ground or basement floor constructed or adapted for nonresidential purposes before January 1, 2015, and the use may only operate between the hours of 8:00 am and 10:00 pm:

1. As a Permitted Use: Specialty Retail, Office, or Personal or Business Services.
2. As a Conditional Use: Restaurant.

(See Table 375-3-1 (Permitted Use Table and related Use-Specific Standards))

C. A structure that was originally designed and constructed for a nonresidential use may be occupied for any use in the "Residential" or "Civic and Institutional" categories in Table 375-3-1 (Permitted Use Table) upon the issuance of a Conditional Use Permit.

(ii) RESIDENTIAL CONVERSIONS

A. After June 1, 2017, no structure constructed or converted for use as a single-family dwelling may be converted to add dwelling units unless a Conditional Use Permit for the conversion has been obtained. No Conditional Use Permit for such conversion shall be approved unless the Planning Board determines that:

1. The lot on which the single-family dwelling structure is located contains at least the minimum lot area required in the R-2 zone district.
2. The single-family dwelling structure contains no fewer than 1,600 square feet of living space.
3. After the conversion, there shall not be more than the maximum number of dwelling units that are permitted in the R-2 district.
4. If required as a result of the conversion, no fire escape or second means of egress shall be attached to that portion of the dwelling bordering the front yard and visible from the street right-of-way.

(4) R-T TOWNHOUSE

(a) CONCEPT

(b) PURPOSE

The purpose of the R-T district is to provide for neighborhoods containing a blend of townhouse-style residences of varying sizes and configurations. These areas are often coterminous with the City designated historic districts and those areas of the City predating extensive zoning regulation. A mix of uses are permitted where the existing building typologies and built fabric of the area are consistent with such uses, as shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-8: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

Table 375-2-9: R-T Townhouse See Section 375-4(A) for more details		
Lot Standards		
A	Lot area, minimum	1,150 sq. ft.
B	Lot depth, minimum	55 ft.
C	Lot width, minimum	General: 18 ft. Infill: See Table 375-4-1
D	Impervious lot coverage, maximum	80%
Setbacks		
E	Front, minimum	General: 0 ft. Infill: See Table 375-4-1
F	Side, minimum	0 ft.
	Side, maximum	3 ft. 6 in.
G	Rear	10% of lot depth
Building Standards		
H	Height, principal building, maximum	3 ½ stories
I	Height, accessory buildings, maximum	1 ½ stories
Max. No. of Dwelling Units		
	< 3 stories	1 per non-commercial floor; max. 2
	≥ 3 stories	1 per non-commercial floor; max. 3

(d) DISTRICT STANDARDS

(i) NONRESIDENTIAL USES

A. No nonresidential use shall operate before 8:00 am or after 10:00 pm.

B. Portions of the ground or basement floor of a residential structure that was physically constructed or adapted to accommodate nonresidential uses (for example, through an addition extending closer to the sidewalk than the original façade of the building, or through the installation of display windows) before January 1, 2015, may be used for the following uses, but the area devoted to such uses may not be expanded beyond the ground or basement floor constructed or adapted for nonresidential purposes before January 1, 2015, and the use may only operate between the hours of 8:00 am and 10:00 pm:

1. As a Permitted Use: Specialty Retail, Office, or Personal or Business Services.
2. As a Conditional Use: Restaurant.

(See Table 375-3-1 (Permitted Use Table and related Use-Specific Standards)).

C. A structure that was originally designed and constructed for a nonresidential use may be occupied for any use in the "Residential" or "Civic and Institutional" categories in Table 375-3-1 (Permitted Use Table) upon the issuance of a Conditional Use Permit.

(ii) PREEXISTING RESIDENTIAL USES

A. Structures that were originally designed and constructed for three or more dwelling units, or converted to three or more units prior to January 2015, shall be considered legally conforming as to the number of units, but shall be required to meet building code requirements as to the size and construction of each unit.

B. If a building has been vacant for more than one year or damaged or destroyed to the extent of more than 50 percent of the cost of replacement of the structure, the provisions of Section 375-5(F)(4)(c) shall apply, except that: the average dwelling unit size in any building that was not originally constructed as a multi-family dwelling structure shall be at least 750 sq. ft. or gross improved floor area.

(iii) RESIDENTIAL CONVERSIONS

A. Conversion of a single- or two-family dwelling to a three-family dwelling is permitted with approval of a Conditional Use Permit, provided that:

1. Conversions may occur by right in the following areas, provided that the average dwelling unit size shall be at least 750 sq. ft. of gross improved floor area:
   a. On lots with frontage on Clinton Avenue.
2. In all other areas, conversions require the approval of a Conditional Use Permit, provided that no exterior changes are made that are visible from a public right-of-way, and that at least one unit has a minimum size of at least 1,000 sq. ft. and each unit occupies at least 80 percent of a single floor plate.

B. Conversion of a single- or two-family dwelling to a three-family dwelling is permitted with approval of a Conditional Use Permit, provided that:

1. The building has at least three stories; and
2. No exterior changes to the structure are visible from a public right-of-way; and

3. New and existing units each have a minimum size of at least 1,000 sq. ft. per unit or each occupy at least 80 percent of a single floor plate; and

4. In the following areas, the lowest story must be more than 50 percent above grade:

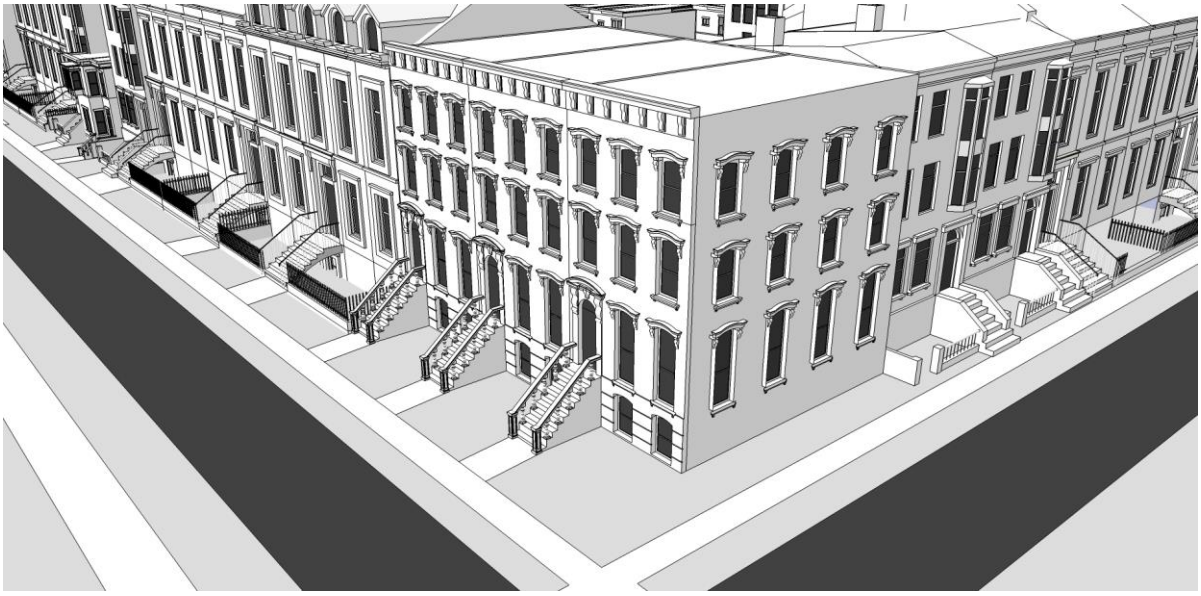
   a. All lots that do not have frontage on Clinton Avenue.

C. No conversions of any single-family, two-family, or three-family structure to contain more than three units shall be permitted, except in the following areas:

1. On lots with frontage on Clinton Avenue, one unit per floor shall be permitted after approval of a Conditional Use Permit provided that the average dwelling unit size shall be at least 750 sq. ft. of gross improved floor area.

(5) R-M MULTI-FAMILY

(a) CONCEPT



(b) PURPOSE

The purpose of the R-M district is to provide for neighborhoods containing predominantly multi-family housing options in larger than average structures, generally with heights of four stories or less. A mix of uses are permitted where the existing building typologies and built fabric of the area are consistent with such uses, as shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-10: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

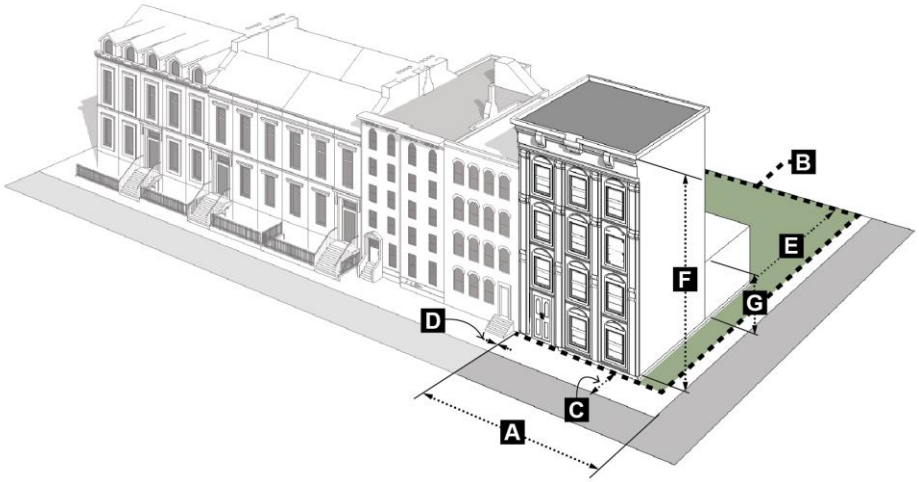


Table 375-2-11: R-M Multi-Family See Section 375-4(A) for more details		
Lot Standards		
A	Lot width, minimum	General: 22 ft. Infill: See Table 375-4-1
B	Impervious lot coverage, maximum	80%
Setbacks		
C	Front, minimum	General: 0 ft.; Infill: See Table 375-4-1
D	Side, minimum	General: 0 ft. Infill: See Table 375-4-1
E	Rear, minimum	15 ft.
Building Standards		
F	Height, principal building, maximum	General: 4 stories Within 50 ft. of property line of R-1L or R-1M zoned lot: 3 stories
G	Height, accessory buildings, maximum	1 ½ stories
	No. of dwelling units, maximum	1 per 750 sq. ft. of gross floor area

(d) DISTRICT STANDARDS

(i) DEVELOPMENT STANDARDS

A. All portions of each primary structure located within 50 feet of a lot boundary abutting an R-1L or R-1M district are limited to three stories.

(ii) NONRESIDENTIAL USES

A. No nonresidential use shall operate before 8:00 am or after 10:00 pm.

B. Portions of the ground or basement floor of a residential structure that was physically constructed or adapted to accommodate nonresidential uses (for example, through an addition extending closer to the sidewalk than the original façade of the building, or through the installation of display windows) before January 1, 2015, may be used for the following uses, but the area devoted to such uses may not be expanded beyond the ground or basement floor constructed or adapted for nonresidential purposes before January 1, 2015, and the use may only operate between the hours of 8:00 am and 10:00 pm:

1. As a Permitted Use: Specialty Retail, Office, or Personal or Business Services.
2. As a Conditional Use: Restaurant.

(See Table 375-3-1 (Permitted Use Table and related Use-Specific Standards)).

C. A structure that was originally designed and constructed for a nonresidential use may be occupied for any use in the "Residential" or "Civic and Institutional" categories in Table 375-3-1 (Permitted Use Table) upon the issuance of a Conditional Use Permit.

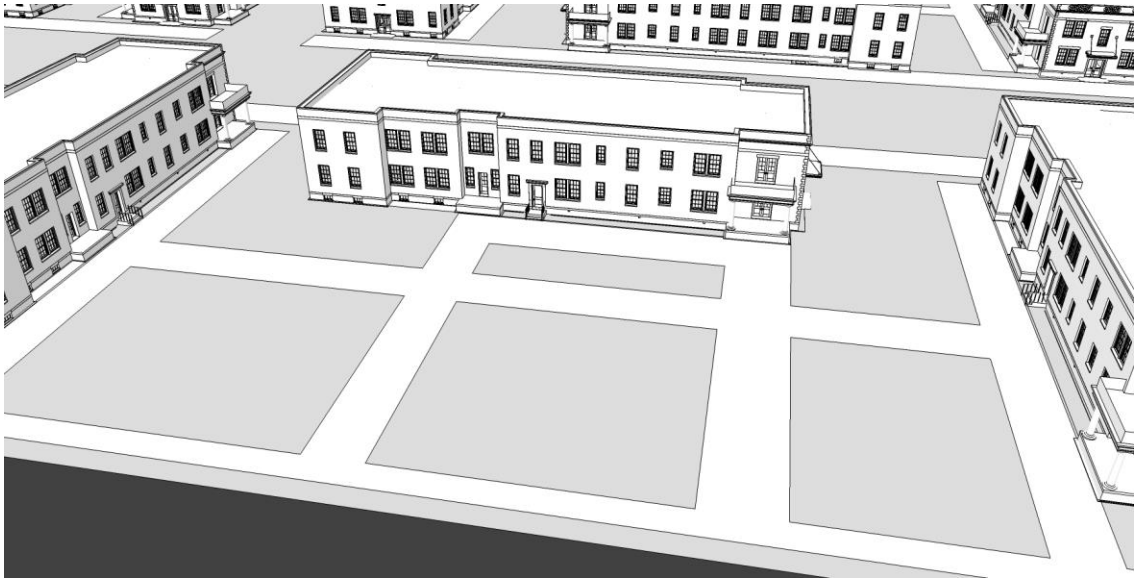
(iii) RESIDENTIAL CONVERSIONS

A. After June 1, 2017, no single- or two-family dwelling structure may be converted to contain more than the existing number of dwelling units unless a Conditional Use Permit for the conversion has been obtained. No Conditional Use Permit for such conversion shall be approved unless the Planning Board determines that:

1. The lot on which the dwelling structure is located contains at least the minimum lot area required in the R-M zone district.
2. The dwelling structure contains no fewer than 1,600 square feet of living space.
3. After the conversion, there shall not be more than the maximum number of dwelling units that are permitted in the R-M district.
4. If required as a result of the conversion, no fire escape or second means of egress shall be attached to that portion of the dwelling bordering the front yard and visible from the street right-of-way.

(6) R-V RESIDENTIAL VILLAGE

(a) CONCEPT



(b) PURPOSE

The purpose of the R-V district is to provide for neighborhoods of containing groups of multi-family housing buildings that may not be located on separate lots and may be organized around open spaces or curvilinear streets rather than on separate lots within a street grid. Some support uses catering to those residing within the building or complex of buildings, are permitted as shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-32: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

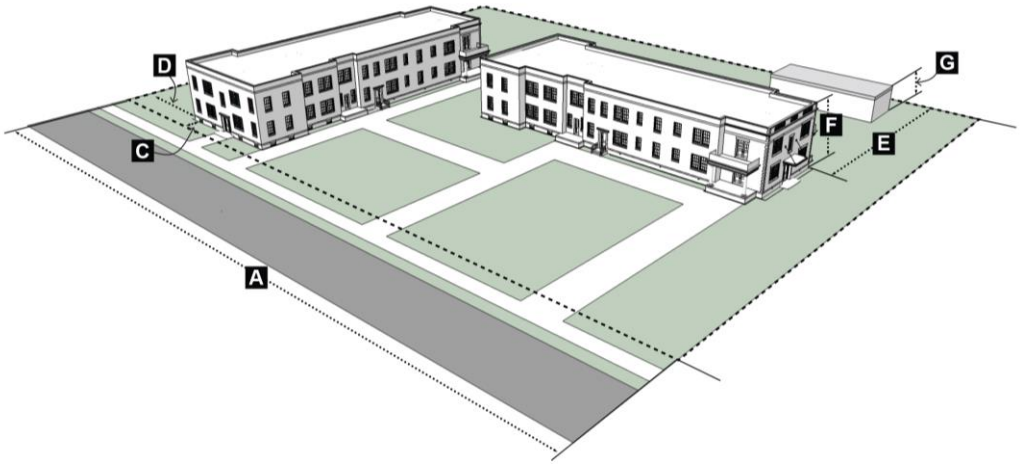


Table 375-2-43: R-V Residential Village See Section 375-4(A) for more details		
Lot Standards		
A	Lot width, minimum	General: 100 ft. Infill: See Table 375-4-1
B	Impervious lot coverage, maximum	50%
Setbacks		
C	Front, minimum	10 ft. Infill: See Table 375-4-1
D	Side, minimum	15 ft.
E	Rear, minimum	20 ft.
Building Standards		
F	Height, principal building, maximum	General: 5 stories Within 500 feet of property line of R-1L or R-IM zoned lot: 3 stories
G	Height, accessory buildings, maximum	1 ½ stories
	Number of dwelling units, maximum	Per building code

(d) DISTRICT STANDARDS

(i) DEVELOPMENT STANDARDS

A. No parking garage shall be located within 50 feet of a boundary with an R-1L, R-1M, R-2, or R-T district.

B. No local street adjacent to or passing through an R-1L, R-1M, R-2, or R-T shall be used to access a parking garage or a parking lot containing more than 100 vehicle spaces in the R-V district.

C. Any primary or accessory structure in the R-V district with a wall that faces an R-1L, R-1M, R-2, or R-2 district and that is more than 100 feet in length shall be horizontally articulated into bays or visually distinct segments no more than 50 feet in length through the use of projections, insets, or changes in wall alignment, color, or materials.

D. No structure that is within 500 feet of an R-1L or R-1M district shall exceed three stories in height.

(ii) **PLANNING BOARD APPROVAL REQUIRED**

Any proposed rezoning of land from a Residential district into the R-V district shall require the preparation of a plan addressing how traffic, parking, and view impacts from the proposed redevelopment will be minimized for nearby Residential district properties. The plan shall include any land and facilities within the current R-V district that will be used to support the use or development of the property to be rezoned, and shall demonstrate how the rezoned and existing institutional properties will manage parking, circulation, noise, and visual impacts, and will meet other applicable development standards.

(iii) **OPTIONAL DISTRICT PLAN**

A. In the R-V district, a project that contains two acres or more of land owned or operated by a single or legally related institutions, may choose to obtain approval of a District Plan from the City as set forth in Section 375-5(E)(15) (District Plan).

B. The District Plan shall include the option for phased development plans. If phases are identified, the Chief Planning Official shall have authority to determine whether the District Plan requirements shall apply to each phase independently, or to the project as a whole.

C. Each District Plan shall meet the following standards:

1. Multiple primary buildings may be located on a single lot in a District Plan area.
2. The District Plan may not approve uses that are not listed in Table 375-3-1 (Permitted Use Table) for the R-V district, and may not approve uses listed as Conditional or "V" uses for the R-V district without approval of a Conditional Use Permit under Section 375-5(E)(16).
3. The minimum side and rear setbacks in Section 375-4(A)(3)(a) (Dimensional Standards - Residential Districts) shall only apply to the outer edges of the District Plan, and shall not apply to individual lots and structures in the District Plan. Locations of structures within a District Plan must still meet all requirements of the City's adopted fire and building codes.
4. The minimum lot width standard in Section 375-4(A)(3)(a) (Dimensional Standards -Residential Districts) shall only apply to the width of the district plan area as a whole, and not to individual lots.
5. The maximum impervious lot coverage in Section 375-4(A)(3)(a) (Dimensional Standards -Residential Districts) shall apply to the District Plan area as a whole, and not to individual platted lots.
6. The Parking and Loading standards in Section 375-4(E) shall apply to the District Plan area as a whole, and not to individual lots or structures.
7. The Side and Rear Lot Line Buffer requirements of Section 375-4(F)(5) shall only apply to the outer edges of the District Plan, and not to individual lots and structures within the District Plan area.

D. Except as modified by this Section 375-2(C)(6)(d)(iii), all other standards and requirements of this USDO applicable in the R-V district shall apply, and the

District Plan may only vary those standards and requirements through the same procedures applicable in the R-V district without a District Plan.

(D) MIXED-USE DISTRICTS

The following Section describes the Mixed-Use districts, which are districts in which both residential and nonresidential principal uses of land are permitted in the same structure or on the same lot. For most Mixed-Use districts, this Section provides an image illustrating the overall district concept, a reference table for all development and design standards applicable to the specific district, the overall purpose of the district, the dimensional standards (illustrated and tabled), as well as any district standards. Three mixed-use districts, Form-Based Warehouse, Form-Based Central Avenue, and Form-Based South End are regulated based on their form and therefore are organized differently. In the Form-Based districts, the overall vision is illustrated by a Regulating Plan, supplemented by the Street Hierarchy and district standards that describe the required form developments must follow in these areas.

(1) MU-NE MIXED-USE NEIGHBORHOOD EDGE

(a) CONCEPT

(b) PURPOSE

The purpose of the MU-NE district is to provide for moderate density in housing options, limited mixed-use development, and opportunities for start-up businesses in a live-work environment. Such districts are often located along principal transit corridors and closely abut residential districts. The character of these areas consists of a blend of uses including single-, two-, and multi-family dwellings, community and cultural facilities, professional offices, services, and limited retail uses. Use of any residential structure for a permitted or approved nonresidential use shall be done so as to avoid altering the essential character of the structure or adversely affecting the surrounding neighborhood. Other neighborhood support uses are permitted as shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-14: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

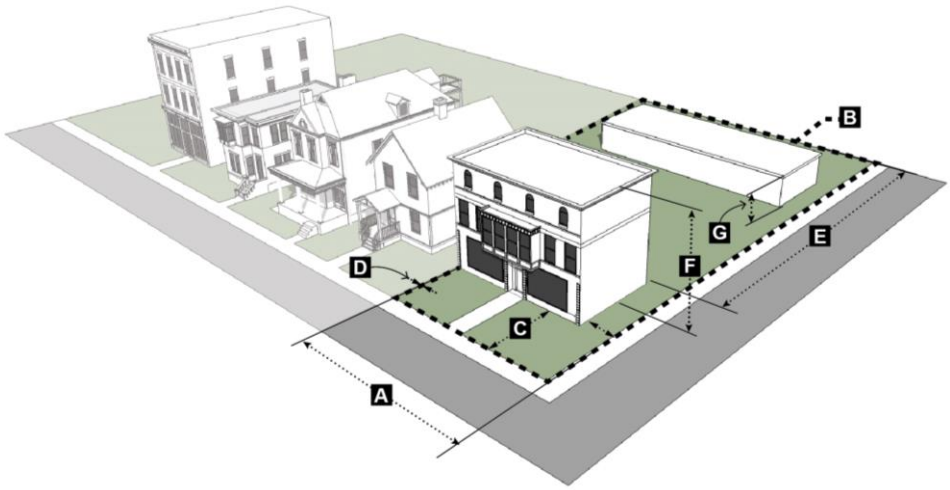


Table 375-2-15: MU-NE Mixed-Use Neighborhood Edge See Section 375-4(A) for more details		
Lot Standards		
A	Lot width, minimum	22 ft.
B	Impervious lot coverage, maximum	70%
Setbacks		
C	Front, minimum	General: 0 ft.; Infill: See Table 375-4-2
	Front, maximum	General: 10 ft.; Infill: See Table 375-4-2
D	Side, minimum	General: 3 ft. 1 side; 8 ft. 2 sides Infill: See Table 375-4-2
E	Rear, minimum	General: 0 ft.; Adjacent to R district: 15 ft.;
Building Standards		
F	Height, principal building, maximum	3 stories
G	Height, accessory buildings, maximum	1 ½ stories
	Number of dwelling units, maximum	1 per 750 sq. ft. of gross floor area

(d) DISTRICT STANDARDS

(i) NONRESIDENTIAL USES

A. Each nonresidential permitted use in the MU-NE district, as shown in Table 3-3-1 (Permitted Use Table), with a gross floor area of more than 3,000 square feet shall require Conditional Use approval under Section 375-5(E)(16).

B. No primary nonresidential use shall operate before 6:00 am or after 11:00 pm.

(ii) CONVERSION OF A RESIDENTIAL STRUCTURE FOR NONRESIDENTIAL USE

A. No modifications to residential structures (including but not limited to altering windows, adding a storefront, or removing porches or other residential character features) shall be permitted to accommodate nonresidential uses.

B. Conversions of a residential structure to a nonresidential use shall be done so that the structure is indistinguishable from a structure containing a residential use, except for permitted signage. Signage for such buildings shall be limited to four square feet and shall not be illuminated.

C. Interior modifications shall allow easily conversion back to residential use in the future.

(2) MU-NC MIXED-USE NEIGHBORHOOD CENTER

(a) CONCEPT

(b) PURPOSE

The purpose of the MU-NC district is to provide for a mixture of residential options, local retail, and small-scale commercial uses providing support services to the surrounding residential neighborhoods. Primary land uses include a variety of predominantly non-destination and non-auto-oriented retail and commercial establishments, as well as complementary residential uses. Other uses are permitted as shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-16: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

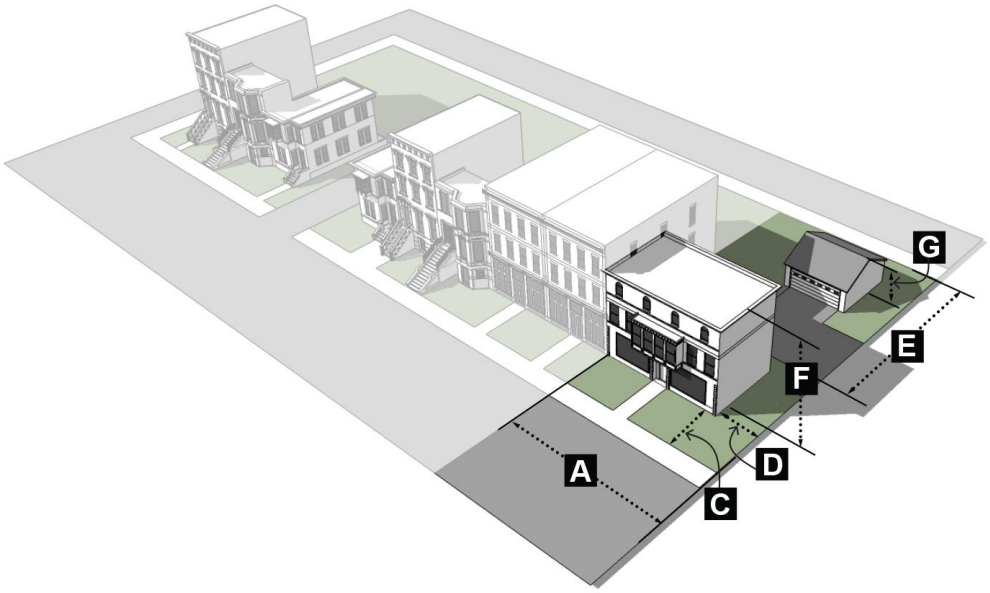


Table 375-2-17: MU-NC Mixed-Use Neighborhood Center See Section 375-4(A) for more details		
Lot Standards		
A	Lot width, minimum	20 ft.
B	Impervious lot coverage, maximum	90%
Setbacks		
C	Front, maximum	10 ft.
D	Side, minimum	0 ft.
E	Rear, minimum	General: 0 ft.; Adjacent to R district: 10 ft.
Building Standards		
F	Height, principal building, maximum	3 ½ stories
G	Height, accessory buildings, maximum	1 ½ stories
	Number of dwelling units, maximum	Per building code

(d) DISTRICT STANDARDS

(i) NONRESIDENTIAL USES

A. Each nonresidential permitted use in the MU-NC district, as shown in Table 3-2-1 (Permitted Use Table), with a gross floor area of more than 5,000 square feet shall require Conditional Use approval under Section 375-5(E)(16).

(ii) FOOD AND BEVERAGE USES

A. No use categorized as a Food and Beverage use in Table 3-2-1 (Permitted Use Table) shall operate before 5:00 am or after 2:00 am

(3) MU-CU MIXED-USE COMMUNITY URBAN

(a) CONCEPT

(b) PURPOSE

The purpose of the MU-CU district is to provide for a wide variety of retail, residential, and commercial uses intended to serve an area larger than a specific neighborhood in an urban setting characterized by relatively small blocks. A mix of residential and nonresidential uses on individual lots is encouraged but not required. Permitted uses are shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-18: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

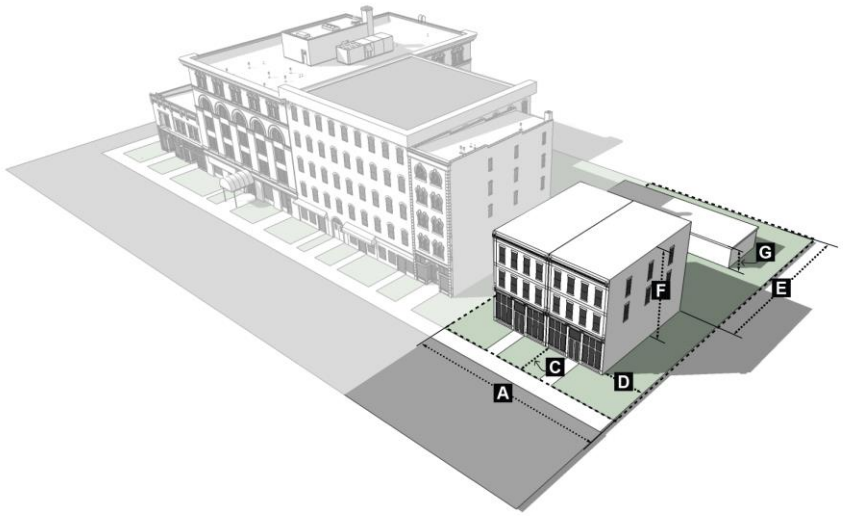


Table 375-2-19: MU-CU Mixed-Use, Community Urban See Section 375-4(A) for more details		
Lot Standards		
A	Lot width, minimum	20 ft.
B	Impervious lot coverage, maximum	90%
Setbacks		
C	Front, maximum	10 ft.
D	Side, minimum	0 ft.
E	Rear, minimum	General: 0 ft.; Adjacent to R district: 15 ft.;
Building Standards		
F	Height, principal building, maximum	General: 5 stories Within 100 feet of property line of R-1L or R-1M zoned lot on portions of lots more than 200 feet in depth: 3 stories
G	Height, accessory buildings, maximum	1 ½ stories
	Number of dwelling units, maximum	Per building code

(d) DISTRICT STANDARDS

(i) DEVELOPMENT STANDARDS

A. All portions of each primary structure located on lots more than 200 feet in depth and within 100 feet of an R-1L or R-1M district are limited to three stories.

(ii) FOOD AND BEVERAGE USES

No use categorized as a Food and Beverage use in Table 3-2-1 (Permitted Use Table) shall operate before 5:00 am or after 2:00 am.

(iii) **OPTIONAL DISTRICT PLAN**

A. A site in the MU-CU district containing over two acres in gross site area may apply for approval of a District Plan, pursuant to the standards, procedures and criteria in Section 375-5(E)(15) (District Plan).

B. The District Plan shall include the option for phased development plans. If phases are identified, the Chief Planning Official shall have authority to determine whether the District Plan requirements shall apply to each phase independently, or to the project as a whole.

C. Each District Plan shall meet the following standards:

1. Multiple primary buildings may be located on a single lot in a District Plan area.
2. The District Plan may not approve uses that are not listed in Table 375-3-1 (Permitted Use Table) for the MU-CU district. Uses listed as Conditional or "V" uses for the MU-CU district require a Conditional Use Permit under Section 375-5(E)(16).
3. The minimum side and rear setbacks in Section 375-4(A)(3)(b) (Dimensional Standards - Mixed-Use Districts) shall only apply to the outer edges of the District Plan, and shall not apply to individual lots and structures in the District Plan. Locations of structures within a District Plan must still meet all requirements of the City's adopted fire and building codes.
4. The minimum lot width standard in Section 375-4(A)(3)(b) (Dimensional Standards - Mixed-Use Districts) shall only apply to the width of the district plan area as a whole, and not to individual lots.
5. The maximum impervious lot coverage in Section 375-4(A)(3)(a)(v) (Dimensional Standards - Mixed-Use Districts) shall apply to the District Plan area as a whole, and not to individual platted lots.
6. The Parking and Loading standards in Section 375-4(E) shall apply to the District Plan area as a whole, and not to individual lots or structures.
7. The Side and Rear Lot Line Buffer requirements of Section 375-4(F)(5) shall only apply to the outer edges of the District Plan, and not to individual lots and structures within the District Plan area.

D. Except as modified by this Section 375-2(D)(3)(d)(iii), all other standards and requirements of this USDO applicable in the MU-CU district shall apply, and the District Plan may only vary those standards and requirements through the same procedures applicable in the MU-CU district without a District Plan.

(4) MU-CH MIXED-USE COMMUNITY HIGHWAY

(a) CONCEPT

(b) PURPOSE

The purpose of the MU-CH district is to provide for a wide variety of retail, residential, and commercial uses intended to serve an area larger than a specific neighborhood, in areas characterized by large blocks with arterial street access, and designed for convenient access by automobile. A mix of residential and nonresidential uses on individual lots is permitted but not required. Permitted uses are shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-20: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

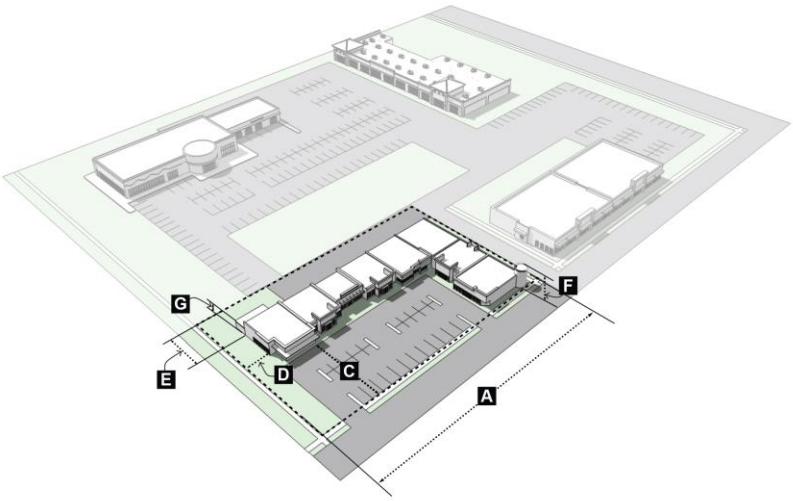


Table 375-2-21: MU-CH Mixed-Use, Community Highway See Section 375-4(A) for more details		
Lot Standards		
A	Lot width, minimum	50 ft.
B	Impervious lot coverage, maximum	80%
Setbacks		
C	Front, maximum	100 ft.
D	Side, minimum	10 ft.
E	Rear, minimum	20 ft.
Building Standards		
F	Height, principal building, maximum	General: 5 ½ stories Within 100 feet of property line of R-1L or R-1M zoned lot on portions of lots more than 200 feet in depth: 3 stories
G	Height, accessory buildings, maximum	1 ½ stories
	Number of dwelling units, maximum	Per building code

(d) DISTRICT STANDARDS

(i) DEVELOPMENT STANDARDS

A. No parking garage or surface parking lot shall be located within 50 feet of a boundary with an R-1L, R-1M, R-2, or R-T district.

B. No local street adjacent to or passing through an R-1L, R-1M, R-2, or R-T district shall be used to access a parking garage or a parking lot containing more than 100 vehicle spaces in the MU-CH district.

C. All portions of each primary structure located on lots more than 200 feet in depth and within 100 feet of an R-1L or R-1M district are limited to three stories.

(ii) **OPTIONAL DISTRICT PLAN**

A. A site in the MU-CH district containing over two acres in gross site area may apply for approval of a District Plan, pursuant to the standards, procedures and criteria in Section 375-5(E)(15) (District Plan).

B. The District Plan shall include the option for phased development plans. If phases are identified, the Chief Planning Official shall have authority to determine whether the District Plan requirements shall apply to each phase independently, or to the project as a whole.

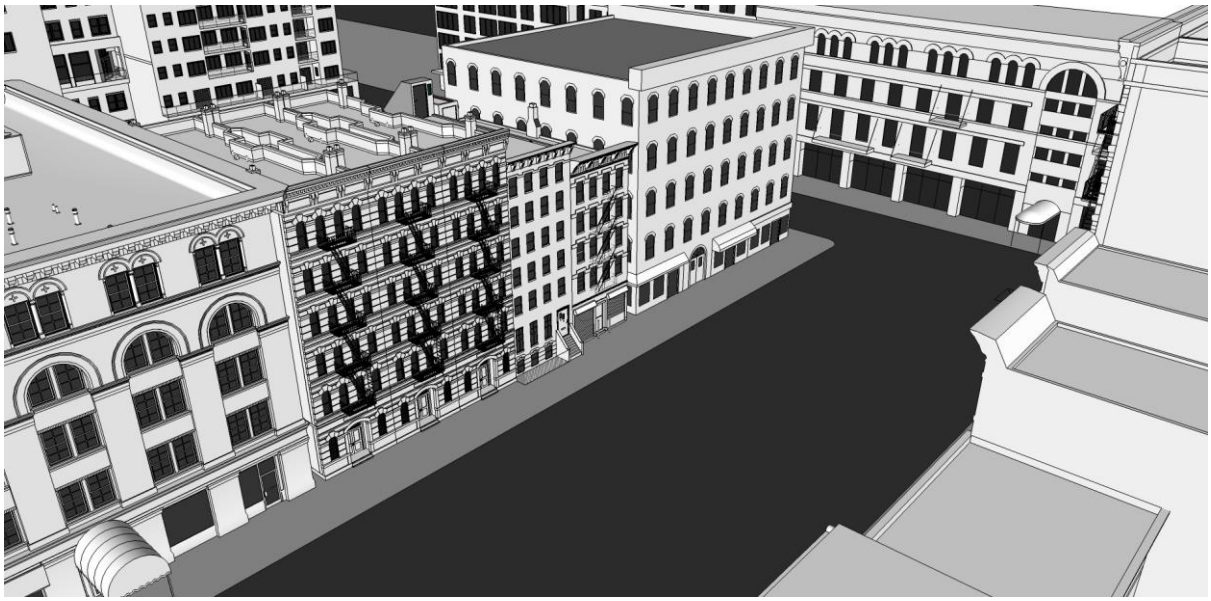
C. Each District Plan shall meet the following standards:

1. Multiple primary buildings may be located on a single lot in a District Plan area.
2. The District Plan may not approve uses that are not listed in Table 375-3-1 (Permitted Use Table) for the MU-CU district, and may not approve uses listed as Conditional or "V" uses for the MU-CH district without approval of a Conditional Use Permit under Section 375-5(E)(16).
3. The minimum side and rear setbacks in Section 375-4(A)(3)(b) (Dimensional Standards - Mixed-Use Districts) shall only apply to the outer edges of the District Plan, and shall not apply to individual lots and structures in the District Plan. Locations of structures within a District Plan must still meet all requirements of the City's adopted fire and building codes.
4. The minimum lot width standard in Section 375-4(A)(3)(b) (Dimensional Standards - Mixed-Use Districts) shall only apply to the width of the district plan area as a whole, and not to individual lots.
5. The maximum impervious lot coverage in Section 375-4(A)(3)(a)(v) (Dimensional Standards - Mixed-Use Districts) shall apply to the District Plan area as a whole, and not to individual platted lots.
6. The Parking and Loading standards in Section 375-4(E) shall apply to the District Plan area as a whole, and not to individual lots or structures.
7. The Side and Rear Lot Line Buffer requirements of Section 375-4(F)(5) shall only apply to the outer edges of the District Plan, and not to individual lots and structures within the District Plan area.

D. Except as modified by this Section 375-2(D)(4)(d)(ii) all other standards and requirements of this USDO applicable in the MU-CH district shall apply, and the District Plan may only vary those standards and requirements through the same procedures applicable in the MU-CH district without a District Plan.

(5) MU-DT MIXED-USE DOWNTOWN

(a) CONCEPT



(b) PURPOSE

The purpose of the MU-DT district is to provide for a wide range of uses and encourage infill redevelopment while reinforcing existing, well-defined urban character of Albany's historic downtown area. A mix of residential and nonresidential uses on individual lots is encouraged but not required. Permitted uses are shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-22: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

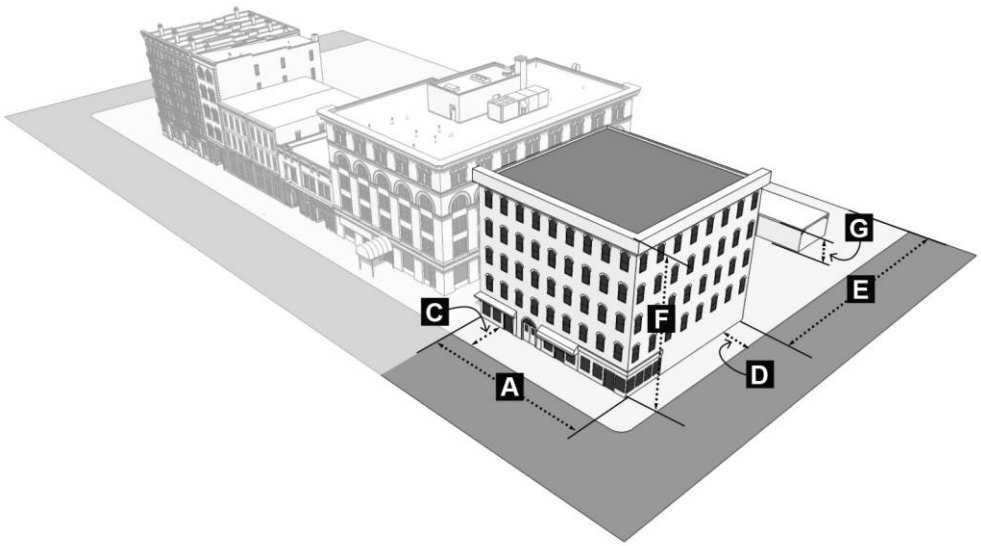


Table 375-2-23: MU-DT Mixed-Use Downtown See Section 375-4(A) for more details		
Lot Standards		
A	Lot width, minimum	20 ft.
B	Impervious lot coverage, maximum	100%
Setbacks		
C	Front, maximum	10 ft.
D	Side, minimum	0 ft.
E	Rear, minimum	0 ft.
Building Standards		
F	Height, principal building, maximum	N/A
G	Height, accessory buildings, maximum	1 ½ stories
	Number of dwelling units, maximum	Per building code

(d) DISTRICT STANDARDS

(i) DESIGN REVIEW OF TALL BUILDINGS

A. Any new building exceeding ten stories in height shall require Design Review pursuant to Section 375-5(E)(20).

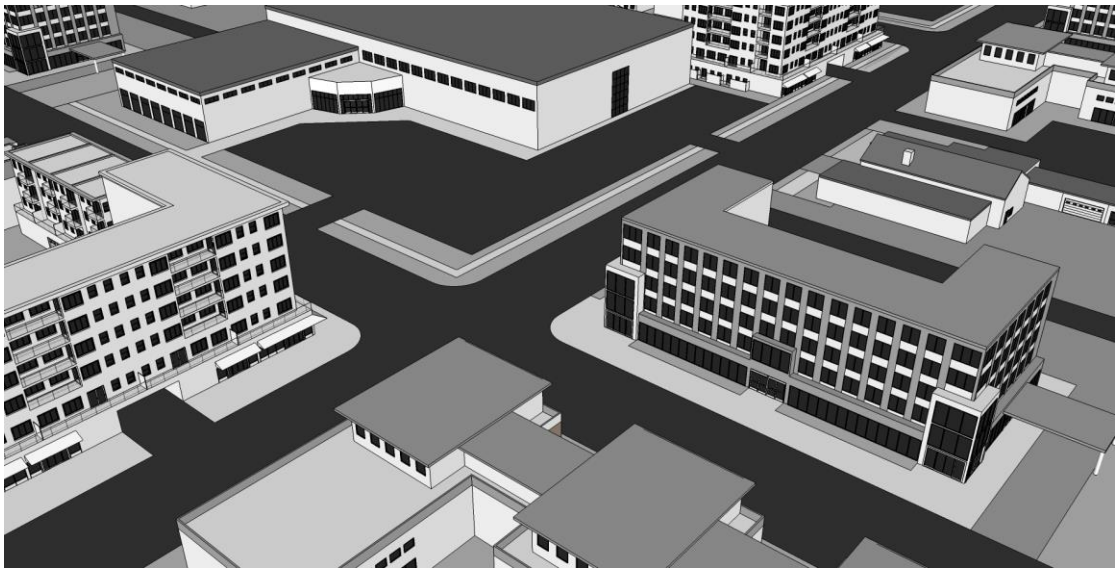
(ii) RETAIL FRONTAGE REQUIREMENT

A. Ground floor street frontage of a primary building shall be constructed to accommodate retail or personal service uses. This requires a minimum first floor height of 11 feet and an occupiable space extending at least 20 feet from the street frontage façade and at least one pedestrian entrance on that frontage.

B. Where there is no market demand, as demonstrated by competent financial and market evidence to the satisfaction of the Planning Board, a raised floor for a residential walk-up use may be constructed instead of a space for retail or personal service uses, provided that the design and construction allows for future conversion to retail or personal service use should market demands change.

(6) MU-CI MIXED-USE CAMPUS/INSTITUTIONAL

(a) CONCEPT



(b) PURPOSE

The purpose of the MU-CI district is to provide for sites or campuses with large public and institutional facilities such as hospitals, museums, and institutions of higher education. Additional land uses include a variety of retail, commercial, and residential uses traditionally associated with these large institutions, as well as others shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-24: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

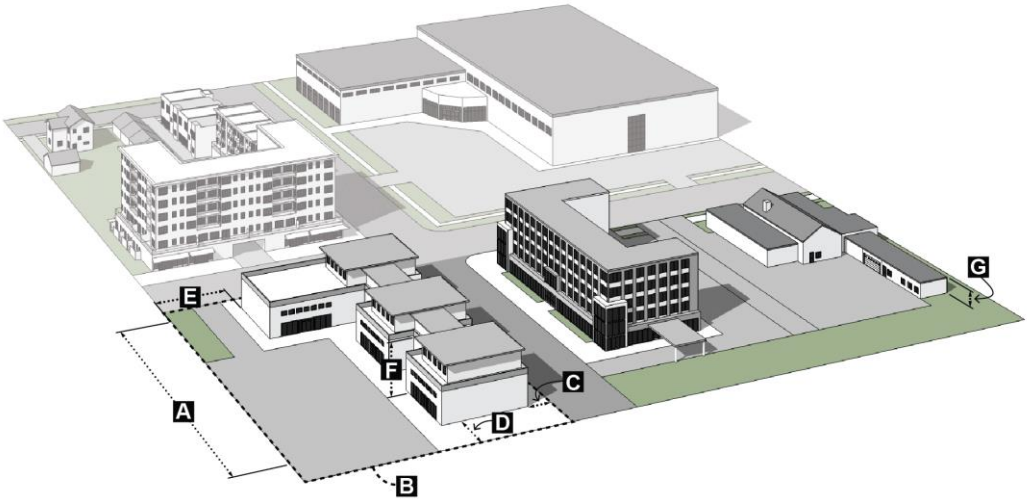


Table 375-2-25: MU-CI Mixed-Use Campus/Institutional See Section 375-4(A) for more details		
Lot Standards		
A	Lot width, minimum	80 ft.
B	Impervious lot coverage, maximum	60%
Setbacks		
C	Front, maximum	20 ft.
D	Side, minimum	0 ft.
E	Rear, minimum	0 ft. Adjacent to R district: 15 ft.
Building Standards		
F	Height, principal building, maximum	8½ stories Within 50 feet of property line of R-1L or R-1M zoned lot: 3 stories Within 50 feet of property line of R-2 or R-T zoned lot: 5 stories
G	Height, accessory buildings, maximum	1 ½ stories
	Number of dwelling units, maximum	Per building code

(d) DISTRICT STANDARDS

(i) DEVELOPMENT STANDARDS

A. Multiple principal buildings may be located on a single lot within the MU-CI district.

B. All portions of each primary structure located within 50 feet of a lot boundary abutting an R-1L or R-1M district are limited to three stories.

C. No parking garage shall be located within 50 feet of a boundary with an R-1L, R-1M, R-2, or R-2 district.

D. No local street adjacent to or passing through an R-1L, R-1M, R-2, or R-T district shall be used to access a parking garage or a parking lot containing more than 100 vehicle spaces in the MU-CI district.

E. Any principal or accessory structure in the MU-CI district with a wall that faces a public street or R-1L, R-1M, R-2, or R-T district and that is more than 100 feet in length shall be horizontally articulated into bays or visually distinct segments no more than 50 feet in length through the use of projections, insets, or changes in wall alignment, color, or materials.

F. For buildings greater than three stories in height, the street-level façade shall be distinguished from the upper floors through architectural treatments and materials selection to create a visual base for the building and an intimate scale for pedestrians.

G. Where any structure abuts a Residential zone district, a minimum rear yard setback of 10 feet shall be provided.

(ii) **FOOD AND BEVERAGE USES**

A. No use categorized as a Food and Beverage use in Table 3-3-1 (Permitted Use Table) shall operate before 5:00 am or after 2:00 am, unless alternative operating hours have been approved through the District Plan Option in subsection iii below.

(iii) **PLANNING BOARD APPROVAL REQUIRED**

A. A review by the Planning Board, pursuant to the procedures in Section 375-5 (Administration and Enforcement), shall be required for all development and redevelopment, unless the applicant chooses to use the optional District Plan described below. Development may not proceed until the Planning Board has approved the project through review or the District Plan Option.

(iv) **REZONING OF LANDS TO MU-CI**

A. Any proposed rezoning of land from a Residential district into the MU-CI district shall require the preparation of a plan addressing how traffic, parking, and view impacts from the proposed redevelopment will be minimized for nearby Residential district properties. The plan shall include any land and facilities within the current MU-CI district that will be used to support the use or development of the property to be rezoned, and shall demonstrate how the rezoned and existing institutional properties will manage parking, circulation, noise, and visual impacts, and will meet other applicable development standards.

(v) **OPTIONAL DISTRICT PLAN**

A. In the MU-CI district, a single institution or entity owning 10 or more acres of contiguous land may choose to obtain approval of a District Plan from the City as set forth in Section 375-5 (Administration and Enforcement). For sites comprised of fewer than 10 contiguous acres, the Chief Planning Official may allow or require that a District Plan be prepared and submitted with the application if potential activities or development could create significant adverse impacts on surrounding properties.

B. The District Plan shall include the option for phased development plans. If phases are identified, the Chief Planning Official shall have authority to determine whether

the District Plan requirements shall apply to each phase independently, or to the project as a whole.

C. Each District Plan shall meet the following standards:

1. The District Plan may not approve uses that are not listed in Table 375-3-1 (Permitted Use Table) for the MU-CI district, and may not approve uses listed as Conditional or "V" uses for the MU-CI district without approval of a Conditional Use Permit under Section 375-5(E)(16).
2. The minimum side and rear setbacks in Section 375-4(A)(3)(b) (Dimensional Standards - Mixed-Use Districts) shall only apply to the outer edges of the District Plan, and shall not apply to individual lots and structures in the District Plan. Locations of structures within a District Plan must still meet all requirements of the City's adopted fire and building codes.
3. The minimum lot width standard in Section 375-4(A)(3)(b) (Dimensional Standards - Mixed-Use Districts) shall only apply to the width of the district plan area as a whole, and not to individual lots.
4. The maximum impervious lot coverage in Section 375-4(A)(3)(b) (Dimensional Standards - Mixed-Use Districts) shall apply to the District Plan area as a whole, and not to individual platted lots.
5. The Parking and Loading standards in Section 375-4(E) shall apply to the District Plan area as a whole, and not to individual lots or structures.
6. The Side and Rear Lot Line Buffer requirements of Section 375-4(F)(5) shall only apply to the outer edges of the District Plan, and not to individual lots and structures within the District Plan area.

D. Except as modified by this Section 375-2(D)(6)(d)(v), all other standards and requirements of this USDO applicable in the MU-CI district shall apply, and the District Plan may only vary those standards and requirements through the same procedures applicable in the MU-CI district without a District Plan.

(7) MU-FW MIXED-USE FORM-BASED WAREHOUSE DISTRICT

(a) REGULATING PLAN

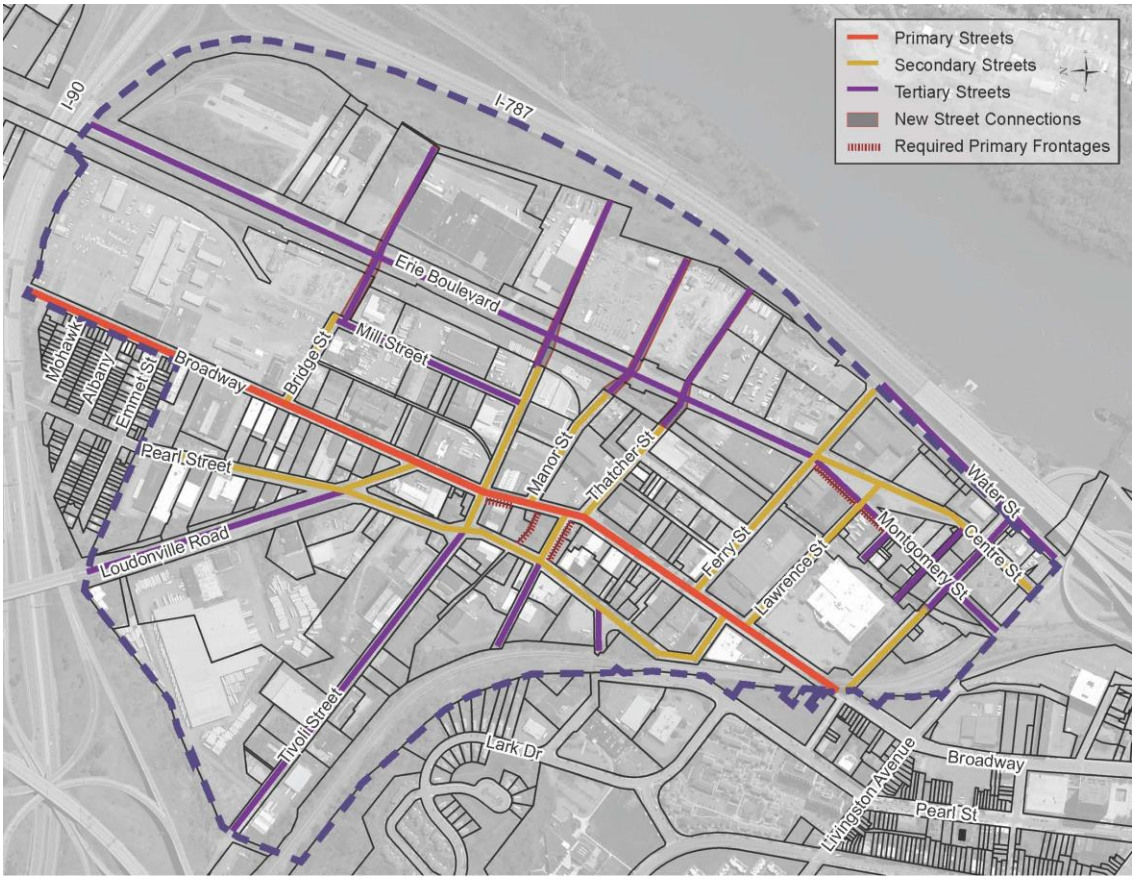
(b) PURPOSE

The purpose of the MU-FW district is to allow for a greater variety of building reuse and encourage the redevelopment of the Warehouse District into a walkable, urban mixed-use center containing residential, retail, commercial, and entertainment uses, while protecting the continued viability of the existing industrial uses that are included in and surround that area. Permitted uses are shown in Table 375-3-1 (Permitted Use Table).

(c) STANDARDS

Table 375-2-26: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Form-based Zoning Standards	375-4(B)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

REET HIERARCHY



(d) DISTRICT STANDARDS

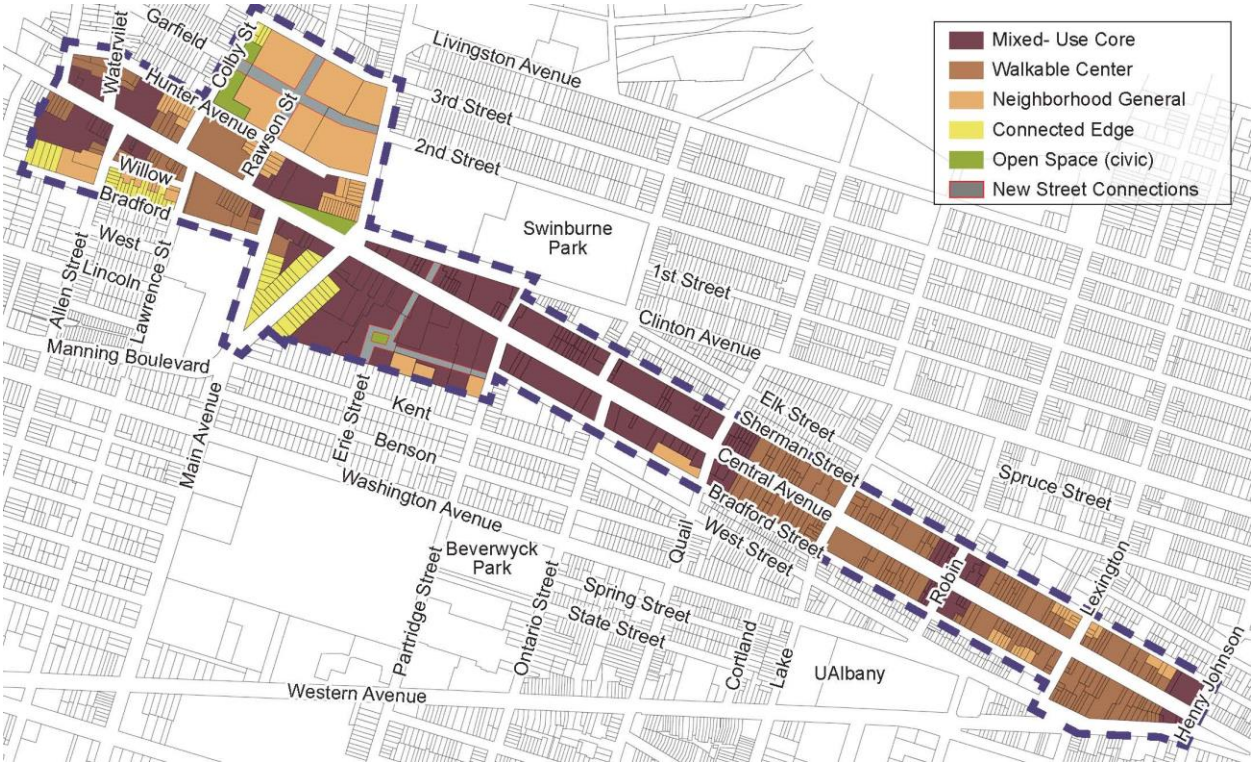
(i) RETAIL FRONTAGE REQUIREMENT

A. In areas designated as a Mixed-Use Core or Walkable Center in the Regulating Plan, at least one ground floor street frontage of a primary building shall be constructed to accommodate retail or personal service uses when there is a market demand for those uses.

B. Where there is no market demand, as demonstrated by competent financial and market evidence to the satisfaction of the Planning Board, a raised floor for a residential walk-up use may be constructed instead of a space for retail or personal service uses, provided that the design and construction allows for future conversion to retail or personal service use should market demands change.

(8) MU-FC MIXED-USE FORM-BASED CENTRAL AVENUE

(a) REGULATING PLAN

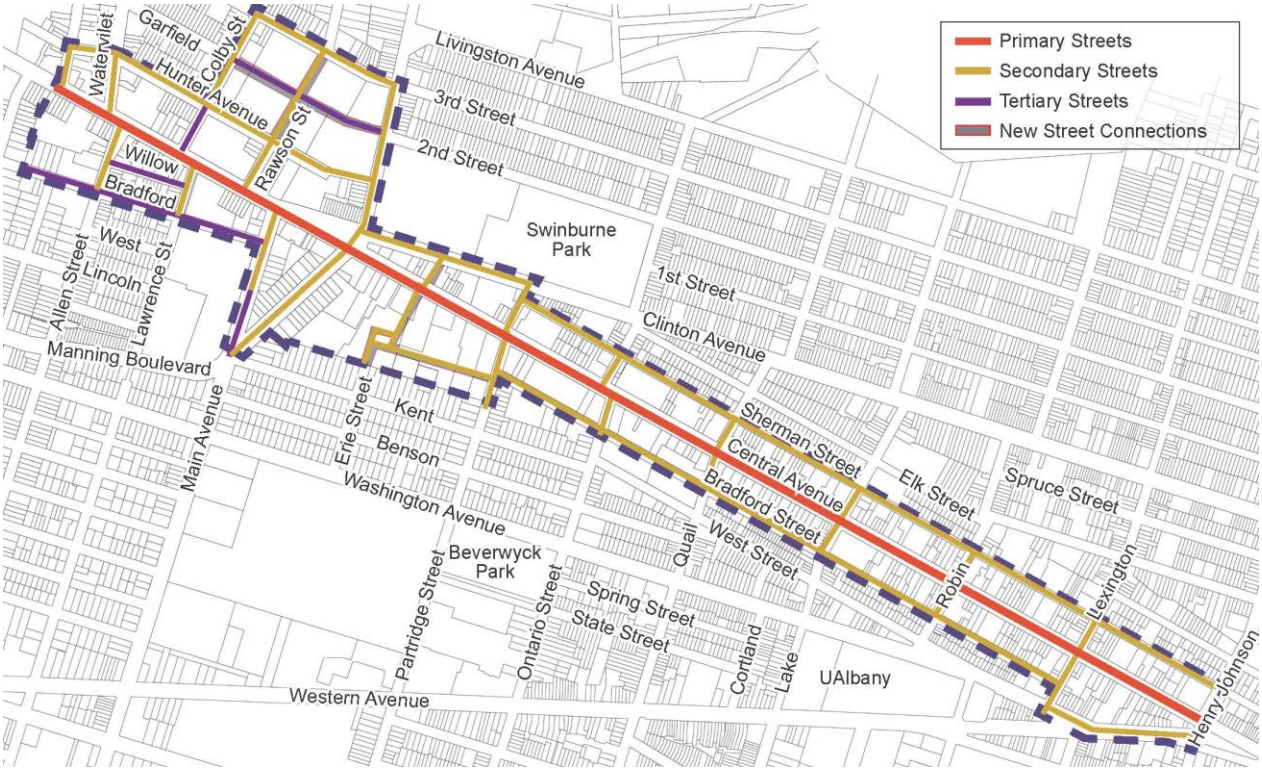


(b) PURPOSE

The purpose of the MU-FC district is to encourage redevelopment in the Central Avenue/Manning Square area into a vibrant mix of residential and nonresidential uses that support the investment in bus rapid transit services along Central Avenue while protecting the adjacent lower density residential neighborhoods. Permitted uses are shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-27: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Form-based Zoning Standards	375-4(B)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) STREET HIERARCHY



(d) DISTRICT STANDARDS

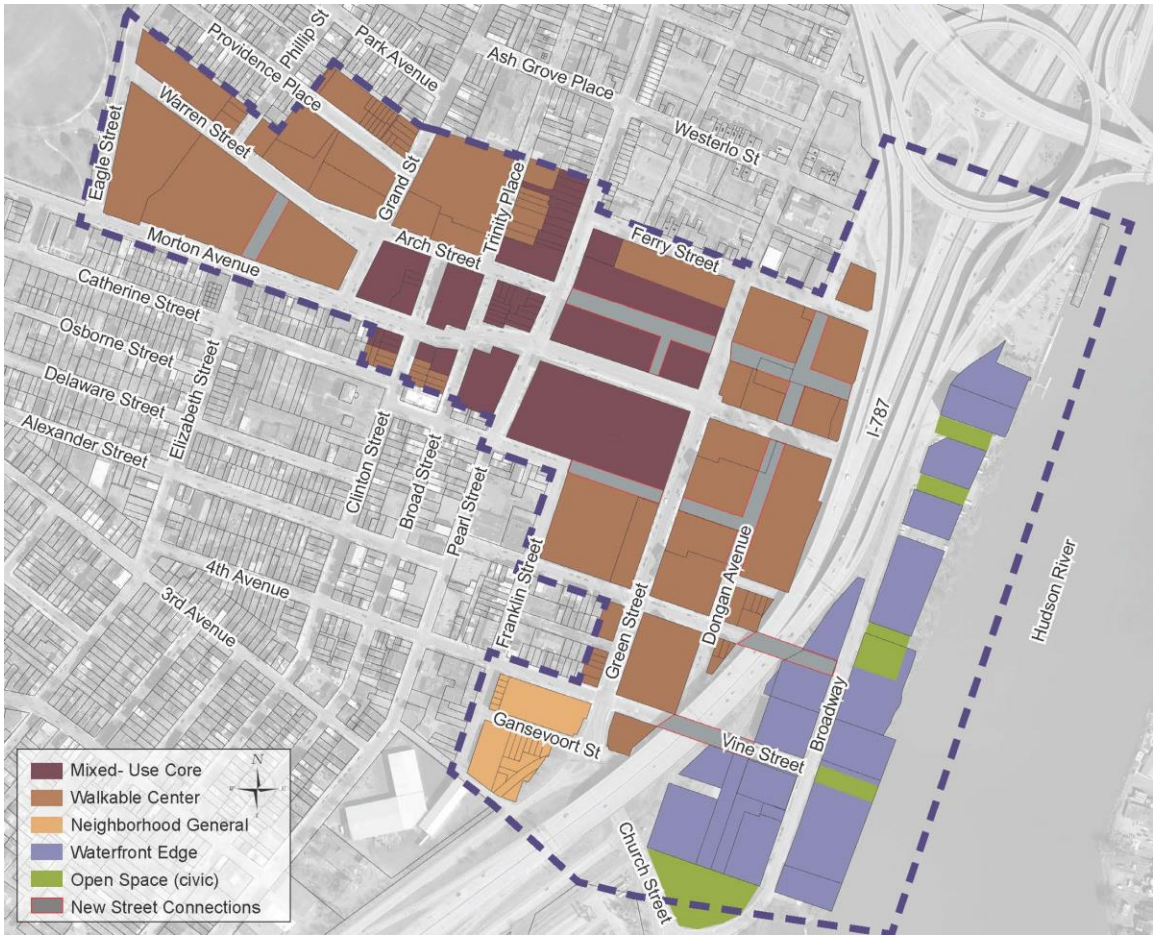
(i) RETAIL FRONTAGE REQUIREMENT

A. In areas designated as a Mixed-Use Core or Walkable Center in the Regulating Plan, at least one ground floor street frontage of a primary building shall be constructed to accommodate retail or personal service uses when there is a market demand for those uses.

B. Where there is no market demand, as demonstrated by competent financial and market evidence to the satisfaction of the Planning Board, a raised floor for a residential walk-up use may be constructed instead of a space for retail or personal service uses, provided that the design and construction allows for future conversion to retail or personal service use should market demands change.

(9) MU-FS MIXED-USE FORM-BASED SOUTH END

(a) REGULATING PLAN

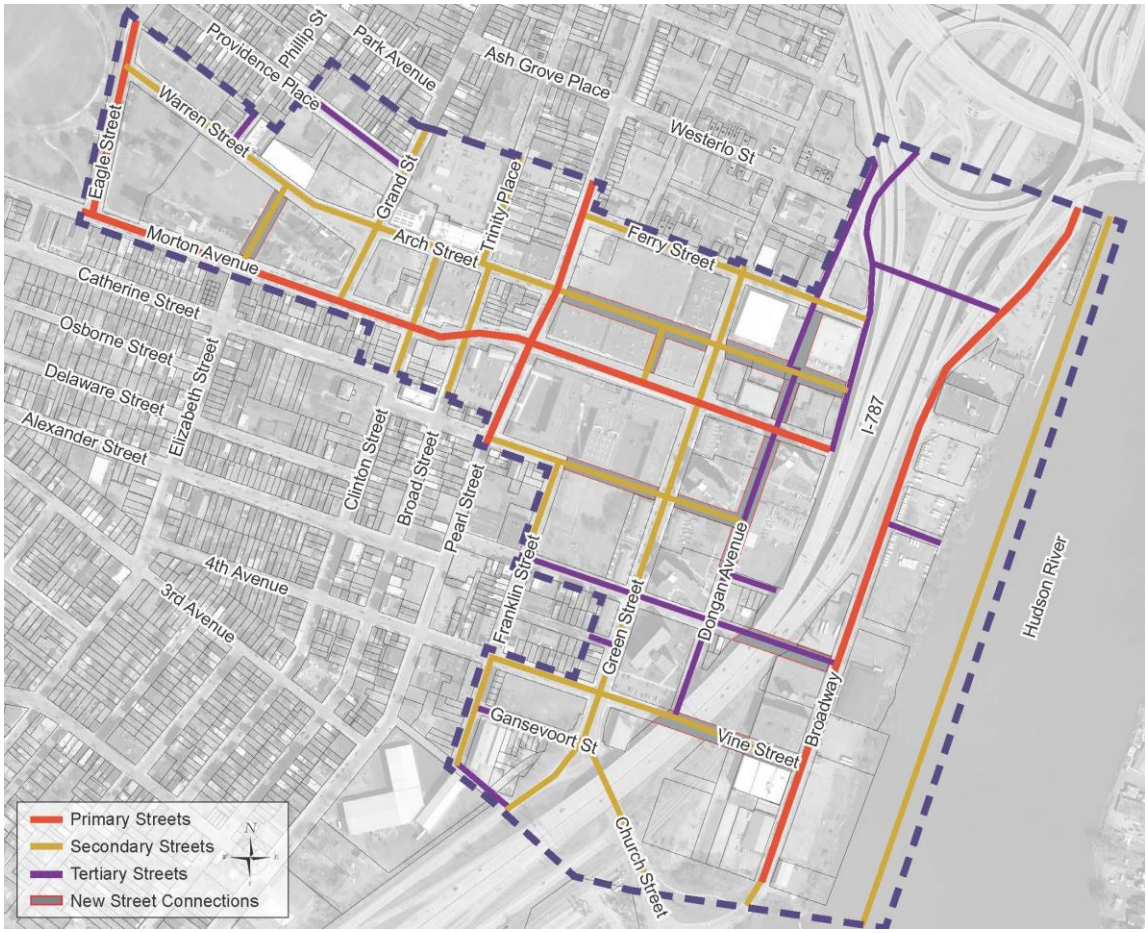


(b) PURPOSE

The purpose of the MU-FS district is to encourage redevelopment in the South End area by re-creating a more fine-grained street system that encourages internal pedestrian and bicycle circulation, encouraging a vibrant mix of residential and nonresidential uses, and creating new investment opportunities along the waterfront. Permitted uses are shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-28: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Form-based Zoning Standards	375-4(B)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) STREET HIERARCHY



(d) DISTRICT STANDARDS

(i) RETAIL FRONTAGE REQUIREMENT

A. In areas designated as a Mixed-Use Core or Walkable Center in the Regulating Plan, at least one ground floor street frontage of a primary building shall be constructed to accommodate retail or personal service uses when there is a market demand for those uses.

B. Where there is no market demand, as demonstrated by competent financial and market evidence to the satisfaction of the Planning Board, a raised floor for a residential walk-up use may be constructed instead of a space for retail or personal service uses, provided that the design and construction allows for future conversion to retail or personal service use should market demands change.

(10) MU-FM MIXED-USE FORM-BASED MIDTOWN

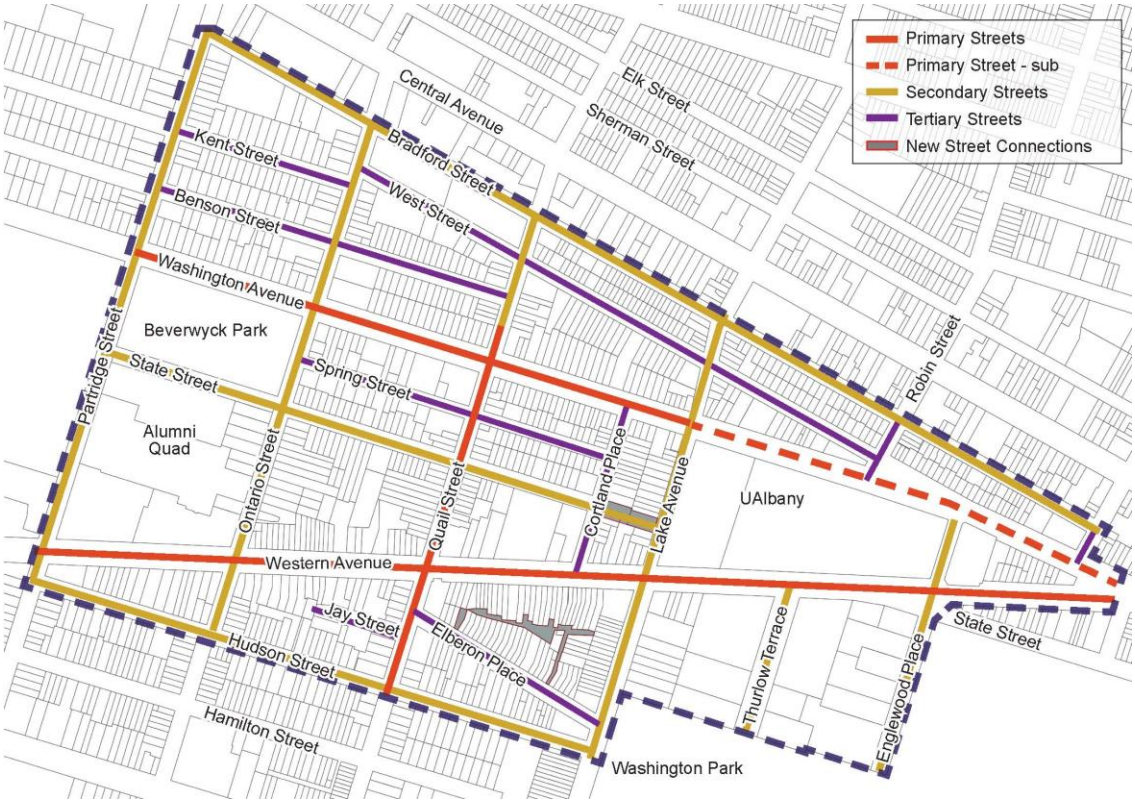
(a) REGULATING PLAN

(b) PURPOSE

The purpose of the MU-FM district is to create a cohesive and mutually supportive mixed-use neighborhood around the University of Albany Downtown Campus, to improve the appearance of that area, to ensure a vibrant atmosphere for students and residents alike, and to protect residential uses surrounding the Downtown Campus from potential adverse impacts of a large and growing university campus. Permitted uses are shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-29: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Form-based Zoning Standards	375-4(B)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) STREET HIERARCHY



(d) DISTRICT STANDARDS

(i) NONRESIDENTIAL USES

A. Those land uses listed in the Commercial use category in Table 375-3-1 (Permitted Use Table) are not permitted in areas designated as Connected Edge on the Regulating Plan, and are only permitted in areas designated as Neighborhood General on the Regulating Plan after approval of a Conditional Use Permit under Section 375-5(E)(16).

B. No primary nonresidential use shall operate before 5:00 am or after 2:00 am.

(ii) RETAIL FRONTAGE REQUIREMENT

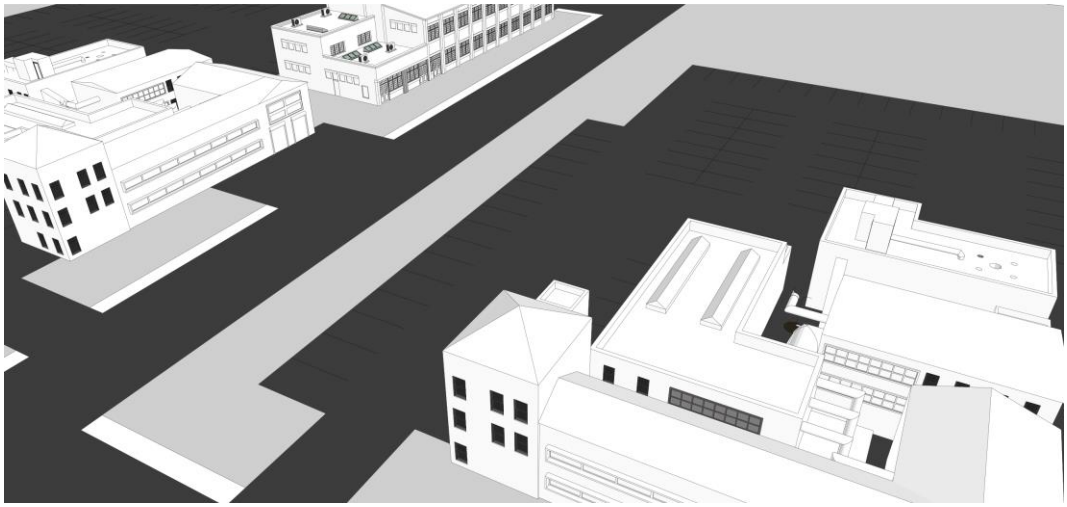
A. In areas designated as a Mixed-Use Core or Walkable Center in the Regulating Plan, at least one ground floor street frontage of a primary building shall be constructed to accommodate retail or personal service uses when there is a market demand for those uses.

B. Where there is no market demand, as demonstrated by competent financial and market evidence to the satisfaction of the Planning Board, a raised floor for a residential walk-up use may be constructed instead of a space for retail or personal service uses, provided that the design and construction allows for future conversion to retail or personal service use should market demands change.

(E) SPECIAL PURPOSE DISTRICTS

(1) I-1 LIGHT INDUSTRIAL

(a) CONCEPT



(b) PURPOSE

The purpose of the I-1 district is to provide for a broad range of commercial, civic, institutional, and light industrial uses that do not generate significant noise, glare, or heavy traffic impacts on surrounding areas. Permitted uses are shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-29: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

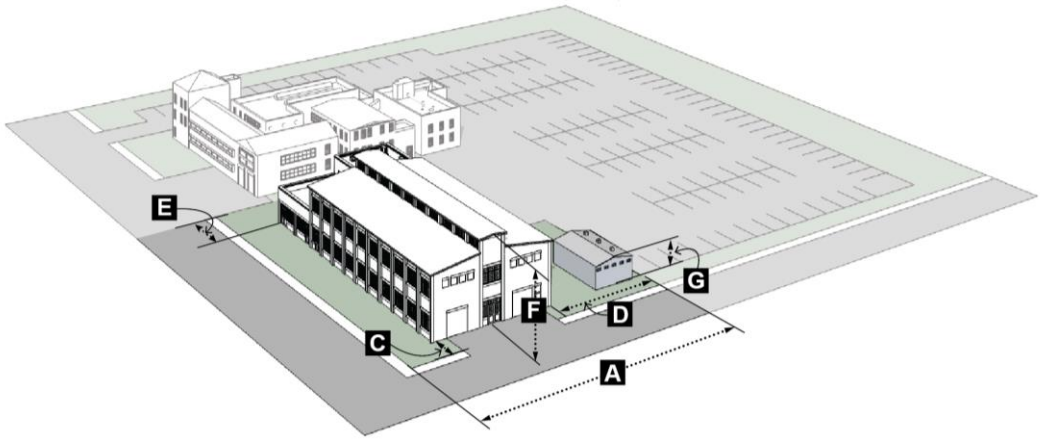


Table 375-2-30: I-1 Light Industrial See Section 375-4(A) for more details		
Lot Standards		
A	Lot width, minimum	25 ft.
B	Impervious lot coverage, maximum	N/A
Setbacks		
C	Front, minimum	0 ft.
D	Side, minimum	10 ft.
E	Rear, minimum	20 ft.
Building Standards		
F	Height, principal building, maximum	2 stories
G	Height, accessory buildings, maximum	N/A

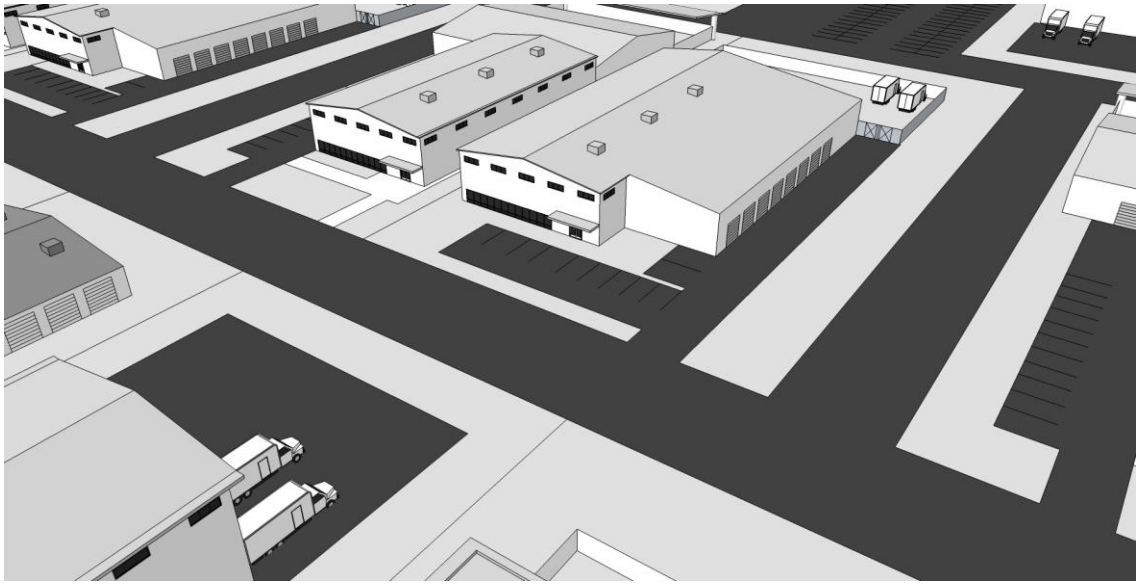
(d) DISTRICT STANDARDS

(i) DEVELOPMENT STANDARDS

A. A minimum rear setback of 100 feet shall apply where any unenclosed use abuts a Residential zone district.

(2) I-2 GENERAL INDUSTRIAL

(a) CONCEPT



(b) PURPOSE

The purpose of the I-2 district is to provide for industrial uses associated with the Port of Albany as well as those with greater noise, glare, or heavy traffic impacts in locations that are typically separated from nearby residential neighborhoods. Permitted uses are shown in Table 375-3-1 (Permitted Use Table).

Table 375-2-31: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

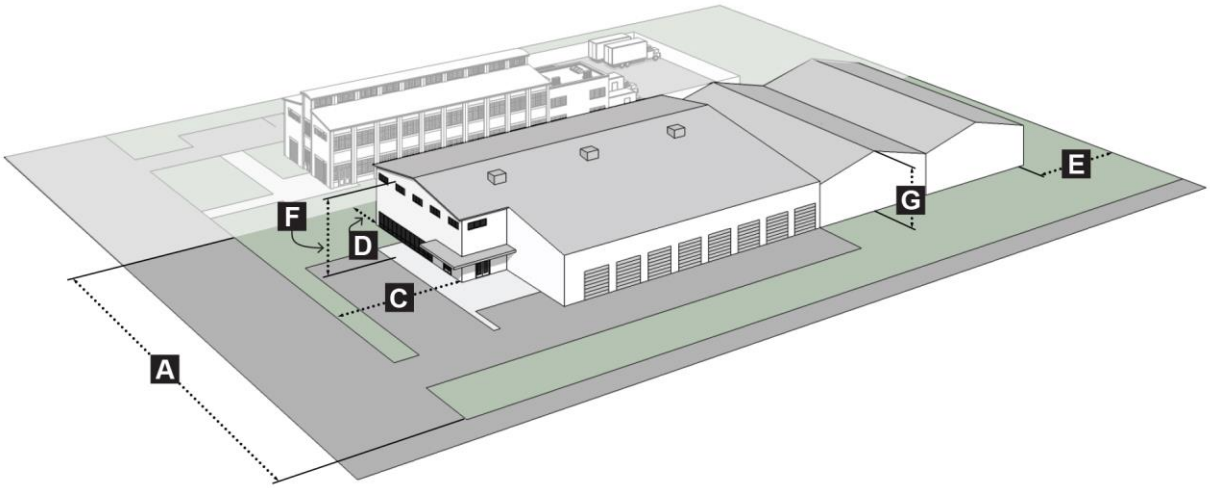


Table 375-2-32: I-2 General Industrial See Section 375-4(A) for more details		
Lot Standards		
A	Lot width, minimum	50 ft.
B	Impervious lot coverage, maximum	N/A
Setbacks		
C	Front, minimum	10 ft.
D	Side, minimum	15 ft.
E	Rear, minimum	40 ft.
Building Standards		
F	Height, principal building, maximum	6 stories
G	Height, accessory buildings, maximum	N/A

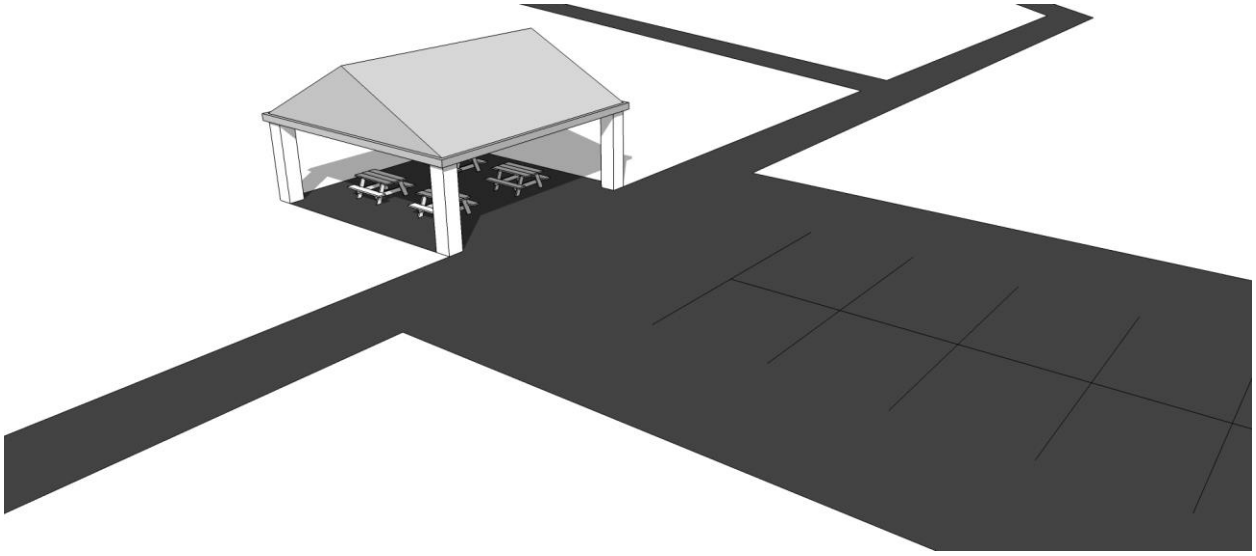
(d) DISTRICT STANDARDS

(i) DEVELOPMENT STANDARDS

A. A minimum rear setback of 200 feet shall apply where any unenclosed use abuts a Residential zone district.

(3) LC LAND CONSERVATION

(a) CONCEPT



(b) PURPOSE

The purpose of the LC district is to provide for and protect publicly-owned parks, open spaces, natural areas, wildlife refuges, and other green spaces throughout the City.

Table 375-2-33: Compliance with Other Standards Required	USDO Section
Use Regulations	375-3
Dimensional Standards	375-4(A)
Access, Circulation, and Connectivity	375-4(C)
Parking and Loading	375-4(E)
Landscaping, Screening, and Buffering	375-4(F)
Building and Streetscape Design	375-4(G)
Outdoor Lighting	375-4(H)
Signs	375-4(I)
Operating and Maintenance	375-4(J)

(c) DIMENSIONAL STANDARDS

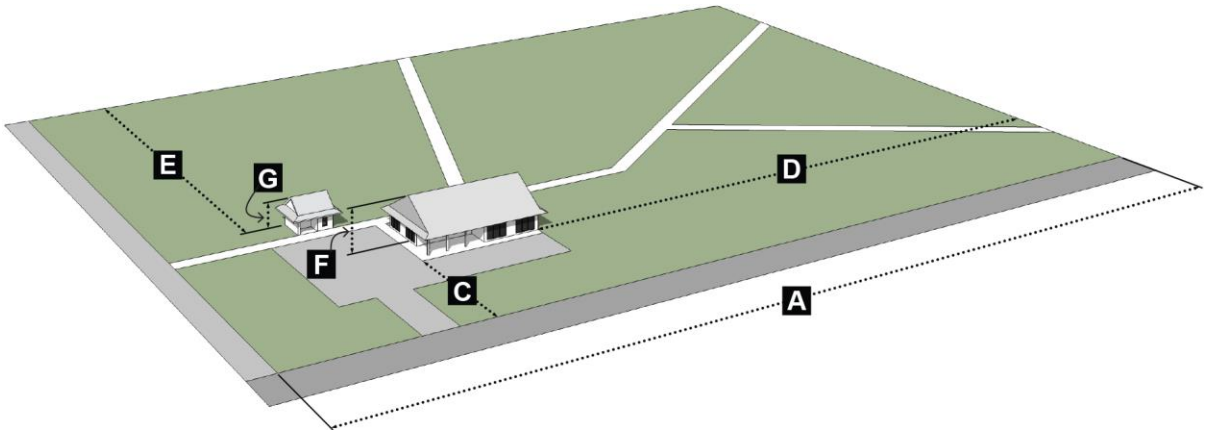


Table 375-2-34: LC Land Conservation See Section 375-4(A) for more details		
Lot Standards		
A	Lot width, minimum	N/A
B	Impervious lot coverage, maximum	10%
Setbacks		
C	Front, minimum	N/A
D	Side, minimum	N/A
E	Rear, minimum	General: N/A
Building Standards		
F	Height, principal building, maximum	2 stories
G	Height, accessory buildings, maximum	1 ½ stories

(d) DISTRICT STANDARDS

(i) DEVELOPMENT STANDARDS

A. A minimum rear setback of 20 feet shall apply where any structure abuts a Residential zone district.

(F) OVERLAY DISTRICTS

(1) HR-O HISTORIC RESOURCES OVERLAY

(a) PURPOSE

There exist within the City places, sites, structures and buildings of historic or architectural significance, antiquity, uniqueness of exterior design or construction, that should be conserved, protected and preserved to maintain the architectural character of the City, to contribute to the aesthetic value of the City and to promote the general good, welfare, health and safety of the City and its residents. The purpose of this local law is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation, and use of buildings, structures, signs, features, improvements, sites, and areas within the City that reflect special elements of the City's historical, architectural, cultural, economic or aesthetic heritage.

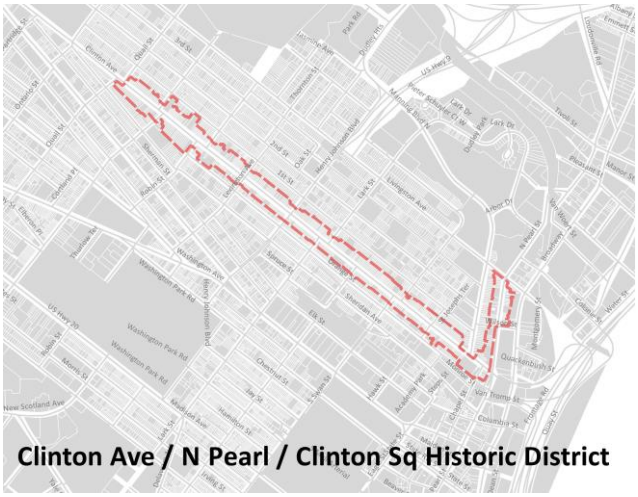
(b) DESIGNATED HISTORIC AREAS AND STRUCTURES

(i) Pursuant to General Municipal Law §96-a and 119-dd(1), the following described areas are designated as areas, buildings, structures and objects having a special historical or aesthetic interest or value. Maps of these areas accompany each table listing street addresses in that district.

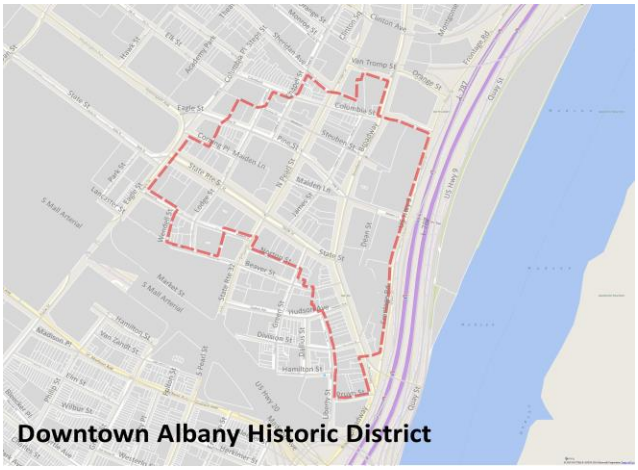
(ii) This Overlay addresses locally designated historic districts and structures. There may be additional designated areas and structures throughout the City that are regulated at the state or federal level.

Center Square/Hudson Park Historic District
Alfred E. Smith State Office Building
Chestnut Street: 58-176; 59-167
Delaware Avenue: 4-62; 21; 25
Dove Street: 22-168; 23-169
Elm Street: 182-288; 175-275
Garden Alley: all
Hamilton Street: 289-411; 334-410
Hudson Avenue: 234-374; 269-383
Irving Street: all
Jay Street: 142-226; 121-231
Jefferson Street: all
Lancaster Street: 110-222; 111-225
Lark Street: 200-306; 195-325
Madison Avenue: 324-462; 327-467
Myrtle Avenue: 150-238; 147-221
Park Avenue: 203-257 (odd only)
South Swan Street: 90-184
Spring Street: 2-72 (even only)
State Street: 244-360; 249-373

Clinton Avenue/North Pearl Street/Clinton Square
Clinton Avenue: 19-613; 22-610
Clinton Square: all
North Pearl Street: 168-250; 201-243



Downtown Albany Historic District
Beaver Street: all
Broadway: 351-575; 324-610
Columbia Street: 46-54; 39-75
Grand Street: 2-14 (even only)
Howard Street: all
Hudson Avenue: 29-31
James Street: 52-54
Lodge Street: all
Maiden Lane: all
North Pearl Street: 11-87; 18-90
Pine Street: all
Sheridan Avenue: 4-12
State Street: 35-125; 38-144



Elberon Triangle Historic District
Elberon Place: 3-63 (odd only)
Quail Street: 198-210 (even only)
South Lake Avenue: 11-51 (odd only)
Western Avenue: 146-214 (even only)

Lafayette Park Historic District
Albany City Hall
Albany County Courthouse
Cathedral of All Saints
Columbia Place: all
Columbia Street: 77-107
Elk Street: 1-37
New York State Capitol
New York State Court of Appeals
New York State Education Building

Lark Street Historic District
Elk Street: 169-187 (odd only)
Lark Street: 97-161 1/2; 100-164

Lexington Avenue Historic District
Lexington Avenue: 7-31; 6-36

Mansion Historic District
Ashgrove Place: all
Bleecker Place: all
Eagle Street: 131-183 (odd only)
Elm Street: 1-59; 2-68
Grand Street: 47-149; 62-140
Hamilton Street: 114-140 (even only)
Madison Avenue: 112-180; 115-173
Madison Place: all
Myrtle Avenue: 10-52; 1-55
Park Avenue: 7; 9; 45-71; 32-72
Philip Street: all
South Pearl Street: 115-243 (odd only)
Trinity Place: 6-80 1/2; 1-47
Van Zandt Street: all
Westerlo Street: 80-90; 83-95
Wilbur Street: all

Pastures Historic District
Bleecker Street: all
Green Street: 101-151; 118-144
Herkimer Street: all
Madison Avenue: 82-104 (even only)
South Ferry Street: all
Westerlo Street: 36-76; 47-77

South End/Groesbeckville Historic District
Alexander Street: 1-69; 2-64
Bassett Street: School 1; 81-83; 48-76
Broad Street: 45-159; 40-190
Catherine Street: 1-45; 2-46
Clinton Street: 15-151; 34-154
Delaware Street: 1-39; 2-48
Elizabeth Street: all
Fourth Avenue: 105-153; Firehouse; Bathhouse; 100-152.
Franklin Street: St. Ann's/St. John's Church and Center; 120-150; 159-169
Morton Avenue: 2-84 (even only)
Osborne Street: 1-15 (odd only)
Plum Street: 55-65; 52-56
Schuyler Street: 97-John Howe Library; 84-108
Second Avenue: 1-59; 2-58
South Pearl Street: 289-477; 298-338
Stephen Street: all
Teunis Street: all
Third Avenue: 1-69; 2-82

South Lake Avenue Historic District
South Lake Avenue: 99-161; 102-124

South Pearl Street Commercial Row
South Pearl Street: 36-64

Ten Broeck Triangle Historic District
First Street: 2-76; 35-79
Hall Place: all
North Hawk Street: 79-87; 80-90
North Swan Street: 32-96; 19-79
St. Joseph's Terrace: all
Second Street: 12-44; 13-53
Ten Broeck Place: all
Ten Broeck Street: all

Upper Madison Avenue Historic District
Madison Avenue: 727-775; 728-774
Yates Street: 367-387 (odd only)

Washington Park Historic District
Englewood Place: all
Henry Johnson Boulevard: 1, 5, 7, 9, 11, 15, 17
Madison Avenue: 469; 721-725; 462-718
South Lake Avenue: 22; 37-89
Sprague Place: 1, 2, 3, 4, 5
Spring Street: 74, 76-83, 87, 89, 90, 92, 95, 99
State Street: 375-503
Thurlow Terrace: all
Western Avenue: 76
Willett Street: all

Washington Avenue Historic District
1455 and a portion of 1375. Beginning at a point in the southerly bounds of lands of the State of New York, Interstate Route 504 (I-90), Fuller Road to Everett Road, said point being 82.08 feet distant on a bearing of south 62 degrees 32 minutes 28 seconds east from a point bend in said southerly bounds of lands of the State of New York, Interstate Route 504 (I-90), Fuller Road to Everett Road, as shown on a map entitled "Map showing property line and easements for No. 1455 and a portion of No. 1375 Washington Avenue," prepared by Hershberg and Hershberg, dated 9-6-1994, with revisions dated 11-8-1994 and 2-17-1995; thence south 62 degrees 32 minutes 28 seconds east along the southerly bounds of lands of the State of New York, Interstate Route 504 (I-90), Fuller Road to Everett Road, Map No. 530, Parcel 651, a distance of 96.74 feet to a point; thence south 38 degrees 07 minutes 03 seconds east a distance of 122.29 feet to a point; thence south 42 degrees 29 minutes 50 seconds east a distance of 933.94 feet to a point; thence south 47 degrees 30 minutes 10 seconds west 40.00 feet to a point; thence north 42 degrees 29 minutes 50 seconds west a distance of 527.60 feet to a point; thence south 47 degrees 30 minutes 10 seconds west 30.00 feet to a point; thence north 42 degrees 29 minutes 50 seconds west a distance of 200.00 feet to a point; thence north 47 degrees 30 minutes 10 seconds east 30.00 feet to a point; thence north 42 degrees 29 minutes 50 seconds west a distance of 207.87 feet to a point; thence north 38 degrees 07 minutes 03 seconds west a distance of 211.90 feet to the point and place of beginning.

Individual Listings	
48 Hudson Avenue	New York State Court of Appeals Building, Eagle Street
Albany Academy Building, Academy Park	New York State Education Building, 31 Washington Avenue
Albany City Hall, Eagle Street	New York State Executive Mansion, 138 Eagle Street
Albany Institute of History and Art, 125 Washington Avenue	Old Post Office, Broadway
Albany Union Station, 575 Broadway	Palace Theatre, 19 Clinton Avenue
Benjamin Arnold House (465 State Street) and Carriage House (307 Washington Avenue)	Quackenbush House, 683 Broadway
Cathedral of All Saints, South Swan and Elk Streets	Quackenbush Pumping Station - Albany Waterworks, Quackenbush Street
Cathedral of the Immaculate Conception, Eagle Street and Madison Avenue	St. Mary's Church, Pine and Lodge Streets
Cherry Hill, 523 1/2 South Pearl Street	St. Peter's Church, State and Lodge Streets
Church of the Holy Innocents, North Pearl and Colonie Streets	Schuyler Mansion, 32 Catherine Street
Delaware and Hudson Railroad Building, Broadway	Ten Broeck Mansion, 9 Ten Broeck Place
First Reformed Church, North Pearl and Orange Streets	United Traction Company Building, 600 Broadway
First Trust Company Building, 35 State Street	Whipple Cast and Wrought Iron Bowstring Truss Bridge, 1000 Delaware Avenue
James Hall's Office, Lincoln Park	Young Men's Christian Association, 60 North Pearl Street
New York State Capitol, Eagle Street	

(iii) Amendments to existing districts and the boundaries of any historic districts designated in the future shall be specified in detail and shall be filed in the Planning office for public inspection.

(c) GENERAL GUIDELINES

(i) The general design and character of the proposed alteration or new construction should be compatible with the building and historic district.

(ii) The scale of the proposed alteration or new construction should relate to the building itself, surrounding buildings, the neighborhood and the historic district.

(iii) Texture, materials and color should relate to similar features of other structures in the neighborhood.

(iv) Changes should be visually compatible with surrounding buildings, including the proportion of the building's front façade, the proportion and arrangement of windows and other openings within the façade, the roof shape and the rhythm and spacing of buildings on streets, including setbacks.

(v) Compatible materials and colors that are either similar to or visually quiet in relation to traditional ones used in the area should be used in new construction or when restoration of original materials is impossible. Inappropriate contemporary materials, including those that attempt fake antiquity or rusticity (e.g., unpainted natural wood, reused common brick, undressed stone or asphalt, aluminum or vinyl siding), are discouraged and are specifically prohibited on front façades and within front setback areas. When appropriate traditional materials cannot be duplicated, preference should be given to contemporary materials, used in a straightforward manner, which blend well with the traditional context of the district or modern materials that achieve the same level of detail.

(vi) Grounds for considering a proposed design inappropriate would include arresting and spectacular effects, violent contrasts of materials or colors or intense colors or a multiplicity or incongruity of details resulting in a disturbing appearance.

(d) REHABILITATION GUIDELINES

The following standards for rehabilitation and guidelines for rehabilitating historic buildings are adopted by the Historic Resources Commission to the extent that they affect exterior alterations:

(i) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure or site and its environment.

(ii) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided whenever possible.

(iii) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historic basis and that seek to create an earlier appearance shall be discouraged.

(iv) Changes that may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(v) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure or site shall be treated with sensitivity.

(vi) Deteriorated architectural features shall be repaired rather than replaced whenever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(vii) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting, pressure grit washing and other cleaning methods that will damage the historic building materials shall not be undertaken.

(viii) Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project.

(ix) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historic, architectural or cultural material and when such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.

(x) Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

(xi) Windows

A. Original windows should be repaired rather than replaced whenever possible.

B. A replacement window should match the size of the original opening in width, length and depth of placement and should be constructed in the configuration of the existing or original window (i.e., double-hung sash, 2/2, 6/1, 6/6, etc.). In the event that a previously altered, non-compatible window is being replaced on a street-facing façade, the new window should conform with the original opening and be of a style, color and material appropriate to the building. When there is no evidence of the original window, the new one should be complementary to the building design.

C. The use of interior storm windows is encouraged, but exterior metal or vinyl storm windows the same size as the opening and of an appropriate color are acceptable.

(xii) Stoops

A. Brownstone stoops should be repaired rather than replaced. In the event that portions must be replaced, repair materials should match the color of and closely resemble the existing materials. Replacements for brownstone stoops should be of stone or be entirely cast in tinted concrete and should match the color, placement, size, scale and design of originals as closely as possible.

B. Replacement wooden stoops should match the size, scale, design and placement of the originals or should be appropriate to the original design of the buildings to which they are attached. Each stoop should be painted with a color appropriate to the individual building and the surrounding district.

C. The consistent rhythm of projecting entrance stoops is an important characteristic of the streetscape in historic areas and should be maintained.

(xiii) Rails

When appropriate, original wrought iron rails should be retained when new stoops are built. In the event that a rail is missing, the new rail should be custom-made to be compatible with the style of the building or the surrounding district, where practicable, or be a modern non-decorative rail or a salvaged historic rail appropriate to the style of the building.

(xiv) Paint and Other Materials

A. Retention and/or restoration of old materials and original colors is encouraged. Removal or covering over, including painting, of historic and previously unpainted materials is to be avoided whenever practicable.

B. Historically, Albany common brick was painted; therefore, it should be painted. Harder pressed or face brick was not painted; therefore, these types of brick should be left unpainted.

C. All exterior paint colors shall be selected by the applicant or the owner. Such color selections shall be reviewed by the Chief Planning Official or his/her designee for consistency with the provisions of this Section 375-2(F)(1).

(xv) Doors

Original doors should be repaired rather than replaced whenever possible. A replacement door should be constructed to fit the entire original opening in length, width, depth of placement and style or configuration.

(e) NEW CONSTRUCTION GUIDELINES

These guidelines apply to new construction in historic districts with primarily residential and neighborhood commercial character, including all but the Downtown Albany Historic District.

(i) New construction shall be compatible with the architectural scale, massing, volume and styles existing in the historic district.

(ii) Materials

A. Compatible materials and colors that are either similar to or visually quiet in relation to the traditional ones used in the area should be used in new construction.

B. Inappropriate contemporary materials, including those that attempt fake antiquity or rusticity, shall be discouraged. When appropriate traditional materials cannot be used, preference should be given to contemporary materials used in a straightforward manner that at the same time are not conspicuous in the traditional context of the district.

C. Material selection for new buildings should reflect consideration of the historic district and adjacent historic buildings. In order to retain the visual integrity of the area, contemporary materials, such as glass, curtain walls, concrete, etc., are acceptable, provided that the overall texture, color and detail of the building façade are visually quiet and compatible with the historic district.

(iii) Façade Openings

A. The combined area of openings in the principal plane of the façade should not exceed one-third (1/3) of the overall façade. End-row or corner-sited buildings will be subject to review of both the principal and secondary façades.

B. Repetitive openings should be proportioned so that the height is at least twice the width but not more than three times the width. Basement and attic windows of small area may be excluded from this restriction. The height-to-width ratio of a single architectural feature, such as a door opening, a bay window or one feature window, may be reduced to 1:1.

C. The design of commercial storefronts may differ from the residential proportions for A and B as described above, however they should be compatible with the design and proportion for other historic commercial storefronts within the district.

(iv) Façade Rhythm and Proportion

A. By manipulation of architectural features, the rhythm of separate building units existing on a street of attached townhouses is to be carried across the façade of new attached structures that occupy more than one house lot. Ways in which such articulation may be achieved easily on extended façades include rhythmical grouping of openings in clusters, inclusion of vertical delineations in the wall plane and architectural expression of structural bays.

B. The façade of a structure erected on a single house lot should be proportioned so that the height equals at least 1½ times the width. Adjustment shall be made for residential lots that exceed the predominant lot widths along the frontage street.

(v) Architectural Features

Townhouse roofs generally should not be visible from the street front, except where a proposed design relates to an abutting historic structure or to a streetscape with several structures possessing roof surfaces visible from the street.

(vi) Ornamentation

New infill structures may incorporate ornamental features common to the historic district; otherwise, decorative features should be both clearly modern and compatible with the historic district.

(vii) Floor Levels

Indication of floor levels by means of opening placement and use of belt courses should be related primarily to those levels generally indicated on the entire block and secondarily to those of the two abutting structures.

(viii) Building Height

Building height should relate primarily to the general height of the buildings on the same side of the block. Secondary consideration should be given to the following:

A. The maximum height of a building should be not greater than the taller of the abutting structures on each side of the building site or the tallest building on the same block as the building.

B. The minimum height of a street façade should be not less than the lower of the abutting structures on each side of the building site or the tallest building on the same block as the building.

(ix) In districts characterized by contiguous townhouse construction, the entire street frontage of a lot should be occupied by the building façade(s) that adheres to the height guidelines. In historic areas characterized by detached residential construction, the street front setbacks should be consistent with those structures on the block or street that contribute to the historic and aesthetic character of the streetscape.

(f) NEW CONSTRUCTION IN OR ADJACENT TO THE DOWNTOWN ALBANY HISTORIC DISTRICT

The area comprising the Downtown Albany Historic District has been the center of Albany's growth and development throughout the City's history. This characteristic has resulted in the district's potentially conflicting distinctions of being the location of many of the City's most architecturally and/or historically significant buildings and sites, while also being one of the most logical and desirable locations for new development. Due to the diversity of the existing components of the district, every proposed project involving new construction in or adjacent to the Downtown Albany Historic District will be evaluated for appropriateness to its site and for quality of design and materials. The following general guidelines apply to all new construction in or adjacent to the Downtown Albany Historic District, including but not limited to those properties in the Fort Orange/ Downtown Albany Archaeological Review District and the Secondary Downtown Albany Archaeological Review District described in Section 375-2(F)(2)(AR-O Archaeological Resources Overlay).

(i) Street Pattern

A feature of downtown with great historic significance is the street pattern that has survived largely intact from the 17th Century. New construction should respect this historic street pattern at ground level and in general should be built parallel with the curb lines.

(ii) Street Façades

The street façade(s) of a new building should be located at the lot line, as has traditionally been the case in the district. In the design of corner buildings, particular attention should be given to the definition of the street corner(s) through the use of building mass. Where adjacent buildings are built behind the lot line to accommodate sidewalk cafes, new construction should be consistent with that building placement.

(iii) Overall Design

If at all possible, the scale, materials and façade configuration of a new structure should relate to those of the adjacent structures and the overall streetscape. The goal of these guidelines is to secure compatible new design; the replication or imitation of existing structures is strongly discouraged. The appropriate use of contemporary styles and materials is encouraged, although such styles should fit into the general context of the immediate vicinity.

(g) Fence, Wall, and Accessory Structure Guidelines

(i) Fences and Accessory Structures

A. When visible from a public right-of-way, proposed fences or other accessory structures, such as trellises or storage sheds, shall be reviewed by the Chief Planning Official and should be in general conformance with the review criteria in this section.

B. Chain link fences located on street frontage are not appropriate within historic districts.

C. Wood fences generally should be painted or covered with a solid stain to avoid too rustic of an appearance.

D. Fences, walls, landscaping, or a combination of those features, may be required to screen parking areas. Particular design consideration should be given to the screening of parking lots. In most cases, parking lots should be screened by masonry walls or by more massive and permanent wood or metal fences. However, screening by fences, walls, and landscaping may be limited if they would obscure historic or important views of a building. Whenever practicable, parking lot fences or walls should be in line with the front plane of the buildings on the street and should visually screen parked vehicles from the street.

(ii) Signs

A. In general, sign sizes should be minimal to avoid obscuring architectural details and to avoid visual clutter on the street.

B. Signs for first-floor commercial space in historic districts generally should be placed no higher than the bottom of the second-story windows. Signage should be kept to the first-story frieze or lintel area usually found on 19th Century and early 20th Century Albany commercial storefronts.

C. Backlit plastic signs or awnings are discouraged by the Commission as inappropriate to the 19th and early 20th Century character of the districts.

D. Neon signs that are designed to be in character with the street and building may be permitted.

E. Existing signs that may contribute to the historic character of the district and the building, and their design will be considered carefully before replacement will be permitted.

(h) ORDINARY REPAIR AND MAINTENANCE PERMITTED

Nothing in this Section 375-2(F)(1) or related procedures in Section 375-5(E)(13) (Minor Certificate of Appropriateness) or Section 375-5(E)(19) (Major Certificate of Appropriateness) shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a historic landmark or property within a historic district that does not involve a change in design, building materials, color or outward appearance.

(i) REQUIREMENTS AND PROCEDURES

(i) No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or a property within an historic district; nor shall any person make any material change in the appearance of such a property or its windows, light fixtures, signs or awnings, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley; without first obtaining a Minor Certificate of Appropriateness under Section 375-5(E)(13), or a Major Certificate of Appropriateness under Section 375-5(E)(19), as applicable, and a building permit.

(ii) No permit for signage, new construction, repair, alteration, a sidewalk barricade, demolition or any other work that will affect the exterior of a landmark or a property within an historic district shall be issued by the Chief Building Official until the applicant has obtained a Certificate of Appropriateness.

(iii) All applications to designate a new landmark structure or historic district, or to change the boundaries of a historic district, or to remove the City designation from a landmark or historic district, shall be subject to the requirements and procedures of Section 375-5(E)(25) (Designation of Historic Landmarks).

(2) AR-O ARCHAEOLOGICAL RESOURCES OVERLAY

(a) PURPOSE

The purpose of the AR-O overlay district is to ensure that development in areas designated as archaeologically sensitive or potentially archaeologically sensitive occurs in ways that protect those designated areas and resources.

(b) STANDARDS

(i) For proposed development within the Primary AR-O, as described below, the applicant must submit any necessary cultural resource investigation reports to the Historic Resources Commission, including at a minimum a Phase IA Cultural Resources Investigation. If a potential for resources does exist and cannot be readily avoided or mitigated, the Commission may require additional examination including but not limited

to Phase 1B, Phase II and Phase III reports to establish the significance of the resources and agree upon appropriate mitigation.

(ii) For proposed development in areas outside of the Primary AR-O, a basic review of readily available cultural resources information is required to be submitted to the Chief Planning Official. The Chief Planning Official may require a Phase IA Cultural Resource Investigation based upon available information about potential archaeological resources in the area.

(iii) If upon review of a Phase 1A survey, the Chief Planning Official concludes that there is no potential for cultural resources to be discovered or if modifications to the proposed project are made to avoid or minimize potential impacts, the survey process is completed. If a potential for resources does exist and cannot be readily avoided or mitigated, the Chief Planning Official may require additional examination by means of a field investigation and a Phase IB Cultural Resource Investigation.

(iv) If resources are discovered as a part of a Phase 1B survey, modifications to the proposed project may be permitted to avoid or minimize potential impacts. If resources are identified and cannot be readily avoided, then the review shall be referred to the Historic Resources Commission for consideration of the need for further examination, including but not limited to Phase II and III reports, to establish the significance of the resources and agree upon appropriate mitigation. The Historic Resources Commission shall issue a Certificate of Appropriateness as a part of its determination.

(v) The applicant or the authorized agent thereof shall confer with the City prior to preparing any submission to define and agree upon guidelines for such cultural resource investigation. The City may refer any application or report to the New York State Office of Parks, Recreation and Historic Preservation for advice and consent thereon.

(vi) Cultural resource investigations shall be consistent with the Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State promulgated by the New York Archaeological Council, be prepared by a professional archaeologist.

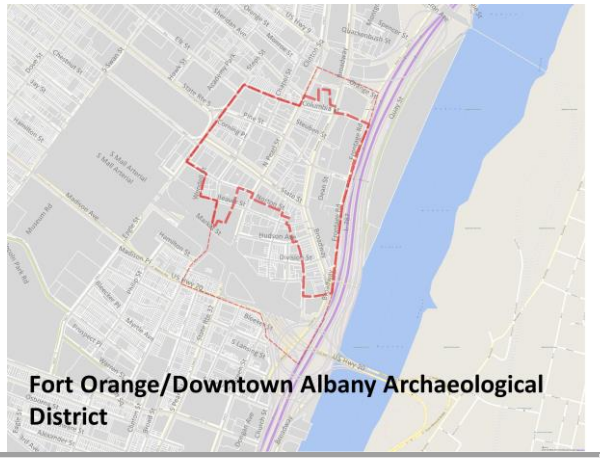
(vii) The applicant shall be responsible for all costs associated with the review and reporting.

(c) AREAS DESIGNATED AS ARCHAEOLOGICALLY SENSITIVE

(i) FORT ORANGE/DOWNTOWN ALBANY ARCHAEOLOGICAL REVIEW DISTRICT

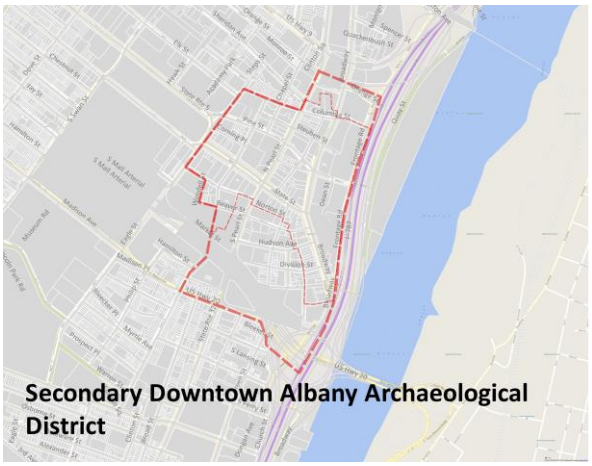
A. The boundaries of the Fort Orange/Downtown Albany Archaeological Review District are shown on the map to the right.

B. These archaeologically sensitive areas of the City are deemed to have special archaeological significance by virtue of their location within the earliest settled portion of the City, which was



comprised of a 17th Century stockaded community and certain surrounding areas.

C. Any applicant proposing subsurface excavation in these areas should be aware that a "Phase IA Cultural Resource Investigation" is required and shall be performed as part of the environmental and development plan review.



(ii) **SECONDARY DOWNTOWN ALBANY ARCHAEOLOGICAL REVIEW DISTRICT**

A. The boundaries of the Secondary Downtown Albany Archaeological Review District are shown on the map to the right, and include all of the area shown except for that land within the Fort Orange/Downtown Albany Archaeological Review District shown above.

B. This area is considered archaeologically sensitive because it is supportive to the Downtown Albany Archaeological District and Fort Orange areas by reason of proximity, similar street configuration and an interspersing of similar structures.

C. Projects in this area are subject to requirements related to Section 375-2(F)(1)(f) (New Construction in or Adjacent to the Downtown Albany Historic District) and/or Section 375-5(E)(17) (Demolition Review).

D. Any applicant proposing subsurface excavation in this area should be aware that at a minimum a Phase IA Cultural Resource Investigation is required and shall be performed as part of the environmental and development plan review.

E. All properties located within the Secondary Downtown Review District that have been designated as landmarks or are included in an historic district are subject to all the provisions of this Section 375-2(F)(2)(c)(ii).

(iii) **REMAINDER OF THE CITY**

A. This area of potential archaeological sensitivity includes all of the rest of the land within City limits but not within the Fort Orange/Downtown and Secondary Downtown Albany Archaeological Review Districts.

B. Any applicant proposing subsurface excavation in this area should be aware that a Phase IA Cultural Resource Investigation may be required as part of a permit or development plan review based on available information about potential archaeological resources in the area, including but not limited to the presence of any of the features listed in Subsection (c) below.

C. If any of the following features are discovered on the site, all activity that could disturb, dislocate, damage, or destroy the feature must stop immediately, and the applicant or property owner must notify the City promptly of the existence of such features:

1. Evidence of human remains or burial grounds;
2. Evidence of foundation, roof, walls, or infrastructure built with construction materials or techniques not commonly used during the last 50 years; or
3. Evidence of railroad structures, or canals, dams, or locks.

(d) REQUIREMENTS AND PROCEDURES

(i) No person shall carry out any grading or roadwork in a designated historic district or on a property containing a designated landmark without first obtaining a Minor Certificate of Appropriateness under Section 375-5(E)(13), or a Major Certificate of Appropriateness under Section 375-5(E)(19), as applicable, and a stormwater, grading and erosion permit.

(ii) No stormwater, grading and erosion permit for grading or roadwork shall be issued by the City Engineer until the applicant has obtained a Certificate of Appropriateness. Any application for a permit for such work shall be referred to the Planning Department.

(3) FP-O FLOODPLAIN OVERLAY

(a) PURPOSE

The purpose of the FP-O overlay district is to ensure that development in floodplains defined by Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) complies with all applicable FEMA regulations; to promote public health, safety, and general welfare; and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(i) Regulate uses that are dangerous to health, safety, and property due to water or erosion hazards, or that result in damaging increases in erosion or in flood heights or velocities;

(ii) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(iii) Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of floodwaters;

(iv) Control filling, grading, dredging and other development that may increase erosion or flood damages;

(v) Regulate the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards to other lands; and

(vi) Qualify for and maintain participation in the National Flood Insurance Program.

(b) OBJECTIVES

The objectives of the FP-O are to:

(i) Protect human life and health;

(ii) Minimize expenditure of public money for costly flood-control projects;

(iii) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(iv) Minimize prolonged business interruptions;

(v) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

(vi) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

(vii) Ensure that developers are notified that property is in an area of special flood hazard; and

(viii) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(c) GENERAL PROVISIONS

(i) This Section 375-2(F)(3) shall apply to all areas of special flood hazard within the jurisdiction of the City.

(ii) Basis for establishing areas of special flood hazard:

A. The areas of special flood hazard for the City of Albany, Community No. 360001, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

1. Flood Insurance Rate Map Panel Nos. 360001C0157D, 360001C0159D, 360001C0176D, 360001C0178D, 360001C0179D, 360001C0183D, 360001C0187D, 360001C0188D, 360001C0189D, 360001C0191D, 360001C0192D, 360001C0193D, 360001C0194D, 360001C0211D, 360001C0213D, 360001C0306D, 360001C0307D, whose effective date is March 16, 2015, and any subsequent revisions to these map panels that affect areas under the City's jurisdiction.

2. A scientific and engineering report entitled "Flood Insurance Study, Albany County, New York, All Jurisdictions," dated March 16, 2015.

B. The above documents shall be considered a part of this Section 375-2(F)(3). The Flood Insurance Study and/or maps shall be kept on file with the City Clerk.

(iii) This Section 375-2(F)(3) includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.

(iv) In their interpretation and application, the provisions of this Section 375-2(F)(3) shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare.

(v) Unless specifically defined in Section 375-6 (Definitions and Rules of Construction), words or phrases used in this Section 375-2(F)(3) shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

(vi) All references to zones A, A1-30, AE, AH, AO, B, or X in this Section 375-2(F)(3) refer to those zones as depicted on the Flood Insurance Rate Maps listed and referenced in this Section.

(d) WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Section 375-2(F)(3) is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section 375-2(F)(3) does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Section 375-2(F)(3) shall not create liability on the part of the City, any officer or employee of the City, or the Federal Emergency Management Agency for any flood damages that result from reliance on this Section 375-2(F)(3) or any administrative decision lawfully made under this Section 375-2(F)(3).

(e) ADMINISTRATION; DESIGNATION OF LOCAL FLOODPLAIN ADMINISTRATOR

The Chief Building Official or the equivalent position is hereby appointed local floodplain administrator to administer and implement this Section 375-2(F)(3) by granting or denying floodplain development permits in accordance with its provisions.

(f) USE OF OTHER FLOOD DATA

(i) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data nor identified a floodway, the Chief Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source as criteria for requiring that new construction, substantial improvements or other proposed development meets the requirements of this article.

(ii) When base flood elevation data are not available, the Chief Building Official may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this article.

(g) CONSTRUCTION STANDARDS

(i) GENERAL STANDARDS

Section 375-2(F)(3)(g)(i)A and B shall apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 375-2(F)(3)(c).

A. SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard:

1. Proposals shall be consistent with the need to minimize flood damage;
2. Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and
3. Adequate drainage shall be provided to reduce exposure to flood damage.

B. **ENCROACHMENTS**

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

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

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

2. On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 375-2(F)(3)(c), no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

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

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

3. Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation.

(ii) **STANDARDS FOR ALL STRUCTURES**

Section 375-2(F)(3)(g)(ii)A, B, and C shall apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 375-2(F)(3)(c).

A. **ANCHORING**

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

B. **CONSTRUCTION MATERIALS AND METHODS**

1. New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
2. New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
3. Enclosed areas below lowest floor.
   a. For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for the parking of vehicles, building access or storage in an area other than a basement and that are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
      i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
      ii. The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
   b. Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

C. **UTILITIES**

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

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

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

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

(iii) **RESIDENTIAL STRUCTURES**

A. **ELEVATION**

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in Section 375-2(F)(3)(g)(i)A, Section 375-2(F)(3)(g)(i)B, and Section 375-2(F)(3)(g)(ii).

1. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above one foot above the base flood elevation.

2. Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

3. Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 375-2(F)(3)(at least two feet if no depth number is specified).

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

(iv) **NONRESIDENTIAL STRUCTURES**

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in Section 375-2(F)(3)(g)(i)A, Section 375-2(F)(3)(g)(i)B, and Section 375-2(F)(3)(g)(ii).

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

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

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

B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

2. Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A.2 above.

C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local floodplain administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A.2 above, including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

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

E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

(v) **CRITICAL FACILITIES**

In order to prevent potential flood damages to certain facilities that would result in serious danger to life and health or widespread social or economic dislocation, no new critical facility shall be located within any area of special flood hazard or within any 500-year flood zone shown as a B Zone or as a shaded X Zone on the Community's Flood Insurance Rate Maps.

(4) CS-O COMBINED SEWER OVERLAY

(a) PURPOSE

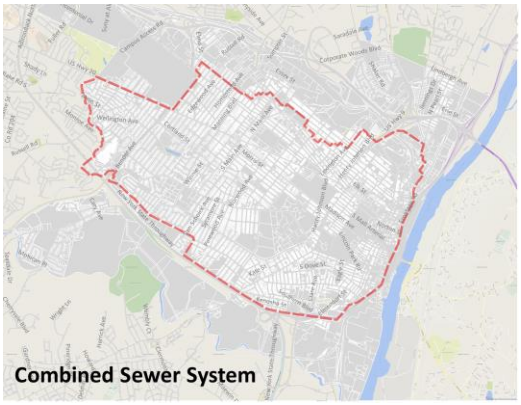
The purpose of the CS-O overlay district is:

(i) To mitigate impacts of new development and redevelopment on the City's combined sanitary/storm sewer system and to ensure that the City remains in compliance with applicable consent orders regarding management of stormwater flows.

(ii) To abate combined sanitary/storm sewer overflow discharges and stormwater surcharges during wet weather events through the use of practices that reuse, infiltrate, and delay the release of stormwater into the combined sanitary/storm sewer system.

(b) BOUNDARIES

The boundaries of the Combined Sewer Overlay district are shown on the map to the right.



(c) COMPLIANCE WITH CONSENT ORDER

All deposit of waste or sewage, all construction of public or private sewers, all connections to public sewer systems, and all other matters related to the disposal of stormwater or sanitary sewer effluent within the Beaver Creek Sewer District, the Karlsfeld Sanitary Sewer District, and the Krumkill Sanitary Sewer Districts, shall comply with the terms of The Albany Pool Communities Combined Sewer Overflow Long Term Control Plan Order on Consent (DEC Case #CO 4-20120911-01), entered into by the Albany Pool Communities, Albany County Sewer District, the Rensselaer County Sewer District, and The New York State Department of Conservation on January 15, 2014, and actions inconsistent with the terms of that Order are violations of this USDO, as amended, until such time as the terms of that Order are no longer binding on the City.

(d) ADDITIONAL REQUIREMENTS FOR SMALL LOTS

(i) Properties one-quarter (1/4) acre in size or smaller located within the CS-O district boundaries shall be required to install at least one of the following site design features to reduce stormwater flows into the combined sewer system.

A. Install one of the following, designed to detain the first one (1) inch of rainfall, as shown in this drawing, and design the site to direct all rooftop stormwater and at least 75% of surface stormwater flows into that site feature.

1. A tree in a tree well, designed to meet applicable standards in the Administrative Manual and the City's applicable technical construction standards.
2. A drainage swale or rain garden, designed to meet applicable standards in the Administrative Manual and the City's applicable technical construction standards.
3. An underground cistern.

B. Install a green roof or blue roof as described in Section 375-4(A)(4)(b).

(ii) The City may approve alternatives to the features listed in subsection (i) above if it determines that the alternative features would achieve the same or greater detention of stormwater or mitigation of impacts to the City's combined sewer system.

(e) ADDITIONAL REFERRALS REQUIRED

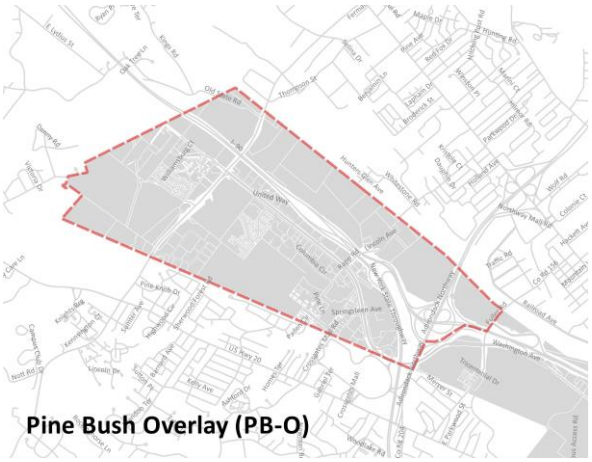
Each application for development or redevelopment that is anticipated to generate over 2,500 gallons of sanitary sewer flow per day will require review by the Albany Department of Water and Water Supply and the New York State Department of Environmental Conservation to ensure compliance with the State Pollution Discharge Elimination System

permit. The City may require the use of water recycling technology as a condition for high water uses.

(5) PB-O PINE BUSH OVERLAY

(a) PURPOSE

The purpose of the PB-O overlay district is to preserve and protect the unique and sensitive nature of the Pine Bush area environment, and to ensure that future development within the overlay area complements efforts outlined in the Albany Pine Bush Preserve Management Plan to the greatest extent possible, while still allowing for appropriate development to occur..



(b) BOUNDARIES

The boundaries of the Pine Bush Overlay district are shown on the map to the right.

(c) REGULATIONS

(i) General leveling and clearing of sites in the PB-O district is not permitted. New construction or redevelopment shall not remove existing indigenous trees or natural features except where necessary for the approved building of foundations, parking areas, and access driveways.

(ii) New or redeveloped primary structures are generally limited to one story in height where the property abuts lands dedicated for conservation pursuant to the Albany Pine Bush Preserve Management Plan in order to reduce impacts from smoke arising from prescribed burns required to maintain the health of the Pine Bush Preserve. The Planning Board may approve additional stories if it would result in a smaller total building footprint and less impervious surface on the lot or the dedication of additional lands for conservation.

(iii) New or redeveloped primary structures shall be set back at least 150 feet from each lot line with an adjacent undeveloped or protected property in the PB-O district. All portions of the setback area not occupied by parking areas, driving lanes, or stormwater management facilities shall be vegetated by retaining any existing natural vegetation to the maximum extent practicable. Where existing vegetation is more sparse or less biologically diverse than that on the adjacent undeveloped PB-O district property, it shall be supplemented through the planting of indigenous species, primarily oak and pitch pines, to a similar density and biological diversity as that on the adjacent undeveloped property.

(iv) New or redeveloped primary structures shall be set back no more than 50 feet from the front lot line, in order to group traffic and occupancy impacts near those areas where the PB-O district is already fragmented by existing roads.

(v) New or redeveloped primary and accessory structures on lots not more than 10,000 square feet in size shall not occupy more than 20 percent of the site areas, nor more than 30 percent of the site area of any other lot.

(vi) All surface parking areas and access driveways shall be located behind the front wall plane of the primary structure, and shall be constructed of pervious paving materials unless the applicant demonstrates that the use of such materials is inconsistent with the type and level of vehicle use required for the permitted principal use. If the use of impervious paving materials is approved, the total area occupied by building footprints and impervious paving shall not exceed 50 percent of the site area.

(vii) Native species chosen from a list maintained by the Pine Bush Preserve Commission and included in the Administrative Manual will be used for required landscaping. New landscaping shall not consist of introduced or invasive species.

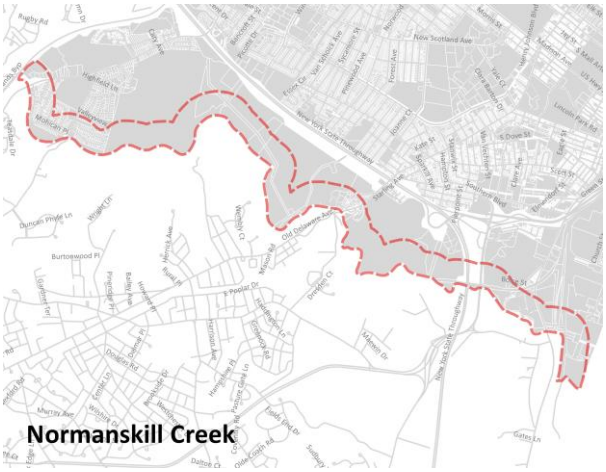
(viii) Dumpsters must be secured from wildlife.

(ix) Refer to the Native Species List in the Administrative Manual for allowable landscaping and plant materials.

(6) NK-O NORMANS KILL OVERLAY

(a) PURPOSE

(i) The purpose of the NK-O overlay district is to ensure careful planning in this area so as to protect people and the environment in the sensitive riparian area. A failure to do so has the potential to result in the degradation of water quality, increased erosion and flooding, loss of wildlife habitat, and reduced opportunities for recreation along the creek.



(ii) The Normans Kill is one of the major freshwater tributaries of the upper Hudson River, which is accessible to anadromous fishes and contains freshwater tidal wetland areas. The fish and wildlife habitat is an approximate two-mile segment of this freshwater tributary, extending from its mouth on the Hudson River to a falls that is located just downstream from the New York State Thruway (Interstate Route 87) bridge. It is significant spawning habitat for migratory fishes in the upper Hudson River.

(iii) Erosion and landslides are persistent problems along the Normans Kill, particularly where there is streamside development or significant clearing of slopes. Soils composed of a high percentage of clay have moderate to severe limitations and have high potential erosion. As the slope of these soils increases, the limitations and erosion hazard also increase. The urban areas of the City are particularly vulnerable to erosion from stormwater runoff.

(b) BOUNDARIES

The boundaries of the NK-O district are shown on the map to the right.

(c) STANDARDS

Any land use, structure, or activity that occurs or is proposed to occur on any lands within 1,000 feet of the mean high water line of the Normans Kill, or within the 100 year floodplain of the Normans Kill, and that is anticipated or could result in the disturbance of more than of 10,000 square feet of surface land area, or to the excavation of more than 100 cubic yards of dirt or fill, shall be required to apply for Major Development Plan approval under Section 375-5(E)(4), and shall be required to avoid or mitigate any potential adverse impacts on the Normans Kill watershed or waterway, including but not limited to soil erosion, soil slippage, and impacts to the floodway or floodplain.

(7) AC-O ALBANY-COLONIE INTERMUNICIPAL OVERLAY

(a) PURPOSE

(i) The property, as described and/or depicted on the corresponding overlay map, has been a long vacant industrial property bisected by the municipal borders of Town of Colonie and the City of Albany. The property formerly housed Tobin's First Prize meat processing and packaging facility, where meat packing activities were conducted, and has been significantly deteriorating since its closure decades ago. Several redevelopment opportunities have been explored over the years with no tangible results. One of the primary reasons cited for the lack of interest and or ability to redevelop the site is the uncertainty that results from the property being located in two separate municipalities and subject to two separate and complex land use approval processes.

(ii) Consistent with their respective Comprehensive Plans, the Town Board of the Town of Colonie and the Common Council of the City of Albany each desire to facilitate redevelopment of this vacant and deteriorating property. Redevelopment, through replanning, and demolition and reconstruction where appropriate will promote and encourage the elimination of blight in this area and promote economic growth. Maximum flexibility for future redevelopment is to be encouraged.

(iii) City of Albany Comprehensive Plan §3.1, which encourages ways to make the City attractive for business development and appealing to regional economic development practitioners, states:

> [C]reation of new zoning or overlay districts, density evaluation and adjustment to bring about desired community vision, elimination of existing zoning districts that are obsolete or ineffective, and rezoning of areas of the City to existing or new districts. Form-based codes should be considered… and [p]romote development patterns that include walkable streets, compact, mixed use development, public spaces, and context sensitivity to historic design and development.

(iv) Town of Colonie Comprehensive Plan, §3.3, states:

Many opportunities exist within the Town of Colonie to regenerate and revitalize once vital industrial areas. Locations that are underutilized or even unused today, such as the First Prize Center … could be returned to productive use. Trying to recreate value in these areas is consistent with the notion that the Town of Colonie cannot look at its remaining undeveloped land for all or most of its future development opportunities. The future revitalization of these areas should be viewed as a critical economic development opportunity... Success with this type of initiative will help the Town maintain its fiscal balance, making it possible to fund necessary services and desired quality of life improvements.

(v) It is the purpose of this Section 375-2(F)(7) to promote the health, safety, convenience and general welfare of the residents of the City and the Town by establishing a single intermunicipal zoning district applicable to the covered area which promotes and encourages economic development in both municipalities through an integrated mix of planned commercial and residential uses designed and constructed using smart growth principles. This intermunicipal zoning district encourages a mix of uses within multiple-story buildings and structures, encourages a high density of building structures and uses to create a village-like or urban setting, promotes pedestrian and other non-vehicular access between uses and provides sufficient separation and buffering from properties neighboring the zoning district to protect the existing character of existing land uses surrounding the district.

(vi) This Section 375-2(F)(7) is intended to promote intergovernmental cooperation to increase coordination and effectiveness of comprehensive planning and land use regulation, make more efficient use of infrastructure and municipal revenues, as well as the enhanced protection of community resources, especially where such resources span municipal boundaries.

(vii) It is the intent of this Section 375-2(F)(7) to create an intermunicipal overlay zoning district, and a set of self-contained regulations to apply to any future redevelopment that occurs within the zoning overlay district. The City and the Town will accomplish this vision through creation of the Albany-Colonie Intermunicipal Overlay Zoning District.

(viii) The requirements of this Section 375-2(F)(7) are intended to be the only land use requirements to apply within the zoning overlay district, except as provided in this Section, and such requirements shall supersede any zoning requirements and other land use regulations that would otherwise apply in the absence of this Section. The provisions of this Section shall be broadly interpreted to promote the Town of Colonie's and the City of Albany's vision and goals as set forth herein, to ensure orderly development and to satisfy the legislative intent of this Section.

(ix) This Section 375-2(F)(7) is adopted pursuant to, and in furtherance of, an Intermunicipal Agreement between the City of Albany and Town of Colonie.

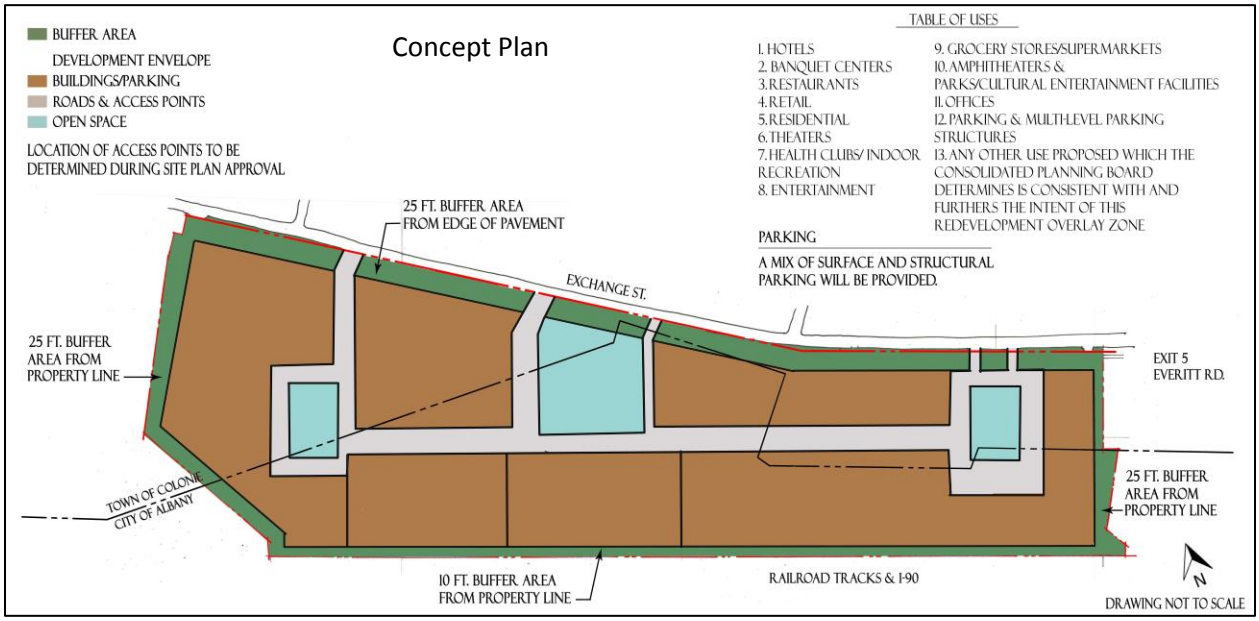
(x) This Section 375-2(F)(7) may not be changed unilaterally by the Town of Colonie or the City of Albany. Any modification of this Section shall be subject to Section 13 of the Intermunicipal Agreement.

(b) ESTABLISHMENT OF ALBANY-COLONIE INTERMUNICIPAL OVERLAY ZONING DISTRICT

(i) The Common Council hereby create an intermunicipal Zoning District entitled Albany-Colonie Intermunicipal Overlay Zoning District ("AC-O").

(ii) The property depicted on the map at the right is hereby designated in the AC-O Zone and the City of Albany and Town of Colonie Zoning Maps are hereby amended accordingly.

(iii) The Town Board and the Common Council hereby adopt a concept redevelopment plan ("Concept Plan") for the AC-O Zone as contained in the Intermunicipal Agreement executed between the City of Albany and the Town of Colonie.



Such Concept Plan may be amended from time to time as provided herein:

A. Subject to the limitations set forth in subsections (b)(vii), (b)(viii), and (b)(ix) of this Section 375-2(F)(7), the actual mix and location of uses and other features of the Concept Plan, including access drives, shall be proposed by the Applicant in connection with each Phase(s), subject to site plan review.

B. Establishment of uses other than those listed in subsections (b)(vii) or (b)(viii) of this Section 375-2(F)(7) or changes to the boundaries of the Development Envelope or the Buffer Area (except access drives approved as part of site plan review) shall not be permitted except by amendment to this Section duly adopted by the Town and City.

C. Any changes made to the Concept Plan as provided herein, including approved Phase(s), shall become part of this Section 375-2(F)(7).

(iv) These regulations shall apply to all or any redevelopment, construction, erection, location or expansion of any use, including any building, structure or appurtenant system, as herein provided for in the AC-O as shown on the Concept Plan (hereinafter, all or any part of same, the "Project").

(v) No redevelopment shall be undertaken in the AC-O except in conformity this Section 375-2(F)(7), including the Concept Plan. The Concept Plan may be constructed or otherwise undertaken in one or more phases (hereinafter, "Phase" or "Phases"). This Section 375-2(F)(7) contains the only zoning or land use requirements applicable in the AC-O. No other zoning or land use requirements or provisions of either the City or Town zoning or land use requirements shall apply, including, but not limited to any such requirements relating to subdivision, demolition and outdoor uses. In the event that the Town or City zoning and land use laws contain a zoning requirement or provision not otherwise contained in, or which is in conflict with, the AC-O, the requirements of this Section shall govern.

(vi) Permits and/or approvals required. No use may be established and no development may be commenced without first obtaining site plan approval or other required permits and/or approvals pursuant to the requirements of the AC-O and the Intermunicipal Agreement, including, but not limited to compliance with applicable SEQRA requirements, and grading and clearing permits.

(vii) Permitted Uses

A. The principal uses shown on the Concept Plan, which are the same as the principal uses listed in the Permitted Use Table below, shall be permitted as of right in the AC-O. If a use is not listed in the Permitted Use Table, it shall be prohibited. Multiple principal uses shall be permitted on a single lot, or multiple lots, and may be bisected by the Town/City municipal border.

B. Permitted Use Table - The following uses are permitted:

1. Hotels
2. Banquet Centers
3. Restaurants
4. Retail
5. Residential
6. Theaters
7. Health Clubs/ Indoor recreation
8. Entertainment
9. Grocery stores/Supermarkets
10. Amphitheaters and parks/cultural entertainment facilities
11. Offices
12. Parking and multi-level parking structures
13. Any other use proposed which the Consolidated Zoning Board determines is consistent with and furthers the intent of this AC-O

(viii) Permitted accessory uses shall be as follows:

A. All structures or uses which are subordinate to and serve a principal building or principal use shall be permitted.

(ix) Area and Bulk Requirements

A. The Project shall be constructed within the overall development envelope shown on the Concept Plan ("Development Envelope"), and the remainder of the Site (except for access drives through such area to neighboring public streets) shall be utilized as a buffer from surrounding properties and uses ("Buffer Area"). Provided that the Buffer Area is maintained as provided for herein, there shall be no yard setback requirements, or building or structure coverage limitation, provided however, that in all areas of the AC-O where there is an internal roadway, a sidewalk meeting the requirements of the Town must be constructed between such roadway and the ground floor of such adjoining building or structure.

B. Maximum building height: 185 feet

C. Parking.

1. Parking shall be provided in accordance with the applicable industry standards and practices for mixed-use projects, taking into account the use or uses proposed in connection with each Phase. Such standards shall include shared parking facilities.

2. The applicant shall demonstrate the fact that adequate and convenient parking is being provided and accessible to the proposed uses in connection with each Phase.

3. The Consolidated Planning Board may waive the requirements and allow the number of spaces deemed necessary, and their location relative to the use in connection with each Phase.

4. Parking may be provided for any use or uses on one or more lots within the AC-O.

(x) Landscaping. Landscaping for the particular Phase under review shall be subject to the standards and criteria set forth in Section 375-2(F)(7)(b)(xii)B.5.

(xi) Powers of Consolidated Planning Board

A. The Consolidated Planning Board shall have the powers set forth in the Intermunicipal Agreement.

B. Each Phase of the Project, including the location and mix of uses, shall be subject to site plan review by the Consolidated Planning Board.

(xii) Site Plan Review Standards and Procedure

A. Application for site plan review. An application for site plan review must be made to the Consolidated Planning Board on a prescribed Consolidated Planning Board application form. The application form shall be presumed the minimum required information and documentation, however, the Consolidated Planning Board may, at its discretion, require the submission of such additional information as it deems necessary to conduct its review, or waive information it determines is not needed.

The Consolidated Planning Board shall have the authority to modify the application form in its discretion to further the purposes and intent of this Ordinance.

B. Site Plan Review Standards and General Criteria. The Consolidated Planning Board shall review a site plan application in accordance with the requirements below:

1. Conformance with the Concept Plan. The Phase must substantially conform with the Concept Plan.
2. Traffic access and roads. All proposed intersections with public roads shall be adequate but not excessive in number; adequate in width, paving, grade, alignment and visibility. Necessary traffic signalization, signs, dividers and other safety controls, devices and facilities shall be given proper consideration and duly provided wherever appropriate or warranted.
3. Pedestrian safety and access. Safe, adequate and convenient pedestrian access and circulation shall be provided both within the Site and to adjacent public roads.
4. Circulation and parking. Off-street parking shall be provided as set forth in Section 375-2(F)(7)(b)(ix)C. The interior circulation system shall be adequate to provide safe accessibility to, from and within all required parking areas. Parking on streets internal to the Site shall be permitted, subject to Consolidated Planning Board approval. The location and design of loading spaces shall not unreasonably interfere with neighboring off-site uses.
5. Screening and landscaping. All structures and recreational, parking, loading, public and other service areas shall be reasonably landscaped and/or screened so as to provide adequate visual and noise buffers from neighboring off-Site uses. The scale and quality of the landscaping and screening on Site shall be harmonious with the character of the neighborhood abutting the landscaped and/or screened area.
6. Drainage. A storm drainage system which demonstrates affirmative compliance with the form, scope and substance of all applicable design criteria shall be provided to accommodate expected loads from the tributary watershed. Drainage shall be conducted to a point of adequate and suitable disposal. Where appropriate, stormwater control shall be provided so as to retain the same rate of off-Site runoff as the existing condition.
7. Water/Sewer. Each Phase shall be connected to the existing municipal water and sewer systems currently serving the Site. The applicant shall be required to construct the on-Site improvements necessary to assure that such systems are able to satisfactorily accommodate the use.
8. Lighting. All site lighting shall be designed and installed so as not to unreasonably interfere with neighboring off-Site uses properties.
9. Fire protection. All proposed structures, service areas, fire lanes, water distribution lines, hydrants, equipment and material shall be adequate and readily accessible for the protection of the proposed uses from fire. Sufficient water supply for fire-fighting purposes shall be provided.

10. Impact of the Project on adjacent land uses. Adjacent and neighboring off-Site properties shall be protected against noise, glare, unsightliness or other objectionable features. Where a proposed use is nonresidential which would adjoin a residential area, the Planning Board shall minimize the impact of the proposed use on such off-Site residential properties.

11. Signage. Signage for the particular Phase under review shall be as provided herein.

    a. Signage located on the south side of the AC-O and facing the highway (I-90) and/or Everett Road will be consistent with other existing signage along I-90.

    b. Signage that faces internally within the AC-O may differ from other areas of the Site, as long as not visible from properties to the north of the AC-O.

    c. Signage located on the north side of the AC-O and facing outward to Exchange Street will comply with the Town of Colonie regulations pertaining to signage.

C. Waivers. An applicant may request, in writing, a waiver or modification of any of the site plan review standards herein. The Consolidated Planning Board may waive or otherwise modify such standards, or requirements, as the case may be, upon a finding that such action is appropriate to further the spirit and intent of this Section 375-2(F)(7).

(xiii) Powers of Consolidated Zoning Board of Appeals

A. The Consolidated ZBA shall have the powers set forth in the Intermunicipal Agreement.

B. To the extent that the powers set forth in such laws are capable of differing interpretations, the Consolidated ZBA shall adopt and follow the interpretation that most furthers the purposes and goals of redeveloping the Site into the Project.

(xiv) Administration and Enforcement

The provisions of this Ordinance shall be administered and enforced as provided herein.

(xv) Definitions

[See "Albany-Colonie Intermunicipal Overlay Definitions" in Section 375-6(B) (Definitions)]

(c) SUPERSESSION

This Section 375-2(F)(7) shall supersede all other local laws and ordinances of the Town of Colonie and the City of Albany applicable to the Site that are inconsistent with the provisions of this Section 375-2(F)(7).

If any clause, sentence, paragraph, word, section or part of this Section 375-2(F)(7) shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such

judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation of the clause, sentence, paragraph, or section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 375-3 USE REGULATIONS

(A) GENERAL

The permitted and conditional land uses in each zoning district are indicated in the Table 375-3-1: Permitted Use Table) below. Additional uses of property or restrictions on the use of property may be contained in the description of the specific district in Sections 375-2(C), (D) or (E) (Base Zoning Districts) or in an Overlay District applicable to the property in Section 375-2(F) (Overlay Zone Districts).

(1) TABLE LEGEND

(a) A "P" in a cell of the Permitted Use Table indicates that the use is permitted in that zoning district, subject to compliance with any Use-Specific Standards listed in the right-hand column of that line of the table.

(b) A "C" in a cell of the Permitted Use Table indicates that the use is permitted only after the applicant obtains a Conditional Use approval pursuant Section 375-5(E)(16) (Conditional Use Permit) and subject to any Use-Specific Standards listed in the right-hand column of that line of the table. If a conforming permitted use of land or structures prior to the adoption of this USDO has become a "C" use under this USDO, the use will be deemed to have a Conditional Use approval under this USDO for the use as it existed on the Effective Date of this USDO.

(c) An "A" in a cell of the Permitted Use Table indicates that the use is permitted as an accessory use only in support of a permitted or conditional use on the site; except that in the case of a Wireless Telecommunications Antenna or a Satellite Dish, the antenna or dish need only be accessory to a structure on the property. An accessory use must be located on the same lot, may not exist before the lot contains a permitted or approved conditional principal use, and may not exist after the termination of all permitted or approved conditional principal uses, unless otherwise provided in this USDO. In the MU-CI and I-1 zone districts, an A use may be accessory to any primary use in that zone district, and need not be accessory to a primary use on the same lot.

(d) A "T" in a cell of the Permitted Use Table indicates that the use is permitted as a temporary use, subject to any Use-Specific Standards for that use. A permit is not issued for each temporary use, but a building permit (or inclusion in a building permit for a primary structure) is required for a Temporary Construction Office or Yard and for a Temporary Real Estate Sales/Leasing Office.

(e) A "V" in a cell of the Permitted Use Table indicates that the use is available as a Conditional Use if a structure or building has been vacant for a period of five or more years, subject to compliance with any Use-Specific Standards listed in the right-hand column of that line of the table. The burden of proving that a structure or building has been vacant for five or more years is with the applicant, and may be shown through utility bills, aerial photographs, affidavits of surrounding property owners, or other materials acceptable to the City. This designation applies only to vacant structures or buildings and not to vacant parcels or lots of land. The existing structure or building shall not be demolished to accommodate a "V" use.

(f) A blank cell in the Permitted Use Table indicates that the use is not permitted in that zoning district unless that use is specifically permitted or conditionally permitted by the provisions of Section 375-2 (Zoning Districts) applicable to the property.

(2) MULTIPLE USES

A development in a Mixed-Use District or Special Purpose District may include multiple principal uses, including a combination of residential and nonresidential uses, provided that each use is either a Permitted or Conditional Use in that zoning district, that a Conditional Use Approval is obtained for any Conditional Use, all Use-Specific Standards applicable to each use are met, and the development complies with all applicable density, dimensional, impervious surface, development, and performance standards.

(3) UNLISTED USES

When a proposed land use is not explicitly listed in Table 375-3-1: Permitted Use Table) below, the Chief Planning Official shall determine whether or not it is included in the definition of a listed use or is so consistent with the size, scale, operating characteristics, and external impacts of a listed use that it should be treated as the same use. In making this determination, the Chief Planning Official shall consider the scale, character, traffic impacts, storm drainage impacts, utility demands, and potential impacts of the proposed use on surrounding properties. The Chief Planning Official's interpretation shall be made available to the public and shall be binding on future decisions of the City until the Chief Planning Official makes a different interpretation or this USDO is amended to treat the use differently. Should the Chief Planning Official determine no similar use is listed within this USDO, the Chief Planning Official shall have the right to delay making a determination and to propose the addition of a new use to Permitted Use Table through an amendment to this USDO as described in Section 375-5(E)(23) (Amendments to Zoning Map or USDO Text).

(4) REQUIRED STATE LICENSES OR PERMITS

All uses required by the State of New York, the federal government, or by another public or quasi-public regulatory agency to have an approval, license, or permit to operate are required to have that approval, license, or permit in effect at the time that an application is submitted for a permit or approval, and at all times when the use is operating; failure to do so is a violation of this USDO.

(5) ADDITIONAL USE REGULATIONS IN SECTION 375-2 (ZONING DISTRICTS)

In some cases, the provisions of Section 375-2 (Zoning Districts) addressing specific zone district regulations may permit or restrict uses in addition to those regulations in this Section 375-3. In case of a conflict between the provisions of Sections 375-2 and 375-3 regarding the availability of a use or conditions attached to that use, the provisions of Section 375-2 shall apply.

(6) PROHIBITED USES

(a) MOBILE HOMES

(i) A Mobile Home is not permitted in any zoning district.

(b) NATURAL GAS EXPLORATION

(i) No person, firm or corporation shall conduct any exploration for natural gas; drill any well for natural gas; transfer, store, treat, or dispose of natural gas exploration or production wastes; or erect any derrick, building, or other structure or place any machinery or equipment for such purpose within the territorial boundaries of the City of Albany.

(ii) The storage, transfer, treatment and/or disposal of natural gas exploration and production wastes are hazardous wastes within the meaning of this Code. No person, firm or corporation shall engage in the storage, transfer, treatment and/or disposal of natural gas exploration and production wastes within territorial boundaries of the City of Albany. No permit issued by any state or federal agency, commission or board to any person, firm or corporation, which would violate the prohibitions of this section, shall be deemed valid within the City of Albany.

(B) PERMITTED USE TABLE

Table 375-3-1: Permitted Use Table
P=Permitted Use | C=Conditional Use | A=Accessory Use | T=Temporary Use | V=Vacant Property Use

Proposed Zoning District	Residential						Mixed-Use										Special Purpose			Use-Specific Standard in Section 375-3
	R-1L	R-1M	R-2	R-T	R-M	R-V	MU-NE	MU-NC	MU-CU	MU-CH	MU-DT	MU-CI	MU-FW	MU-FC	MU-FS	MU-FM	I-1	I-2	LC	
District Standards 375-2	(C)(1)(d)	(C)(2)(d)	(C)(3)(d)	(C)(4)(d)	(C)(5)(d)	(C)(6)(d)	(D)(1)(d)	(D)(2)(d)	(D)(3)(d)	(D)(4)(d)	(D)(5)(d)	(D)(6)(d)	(D)(7)(d)	(D)(8)(d)	(D)(9)(d)	(D)(10)(d)	(E)(1)(d)	(E)(2)(d)	(E)(3)(d)	
LAND USE CATEGORY																				
RESIDENTIAL USES																				
Household Living																				
Dwelling, Single-Family Detached	P	P	P		P	P	P									P				(C)(2)(a)(1)
Dwelling, Two-Family Detached			P		P	P	P									P				(C)(2)(a)(2)
Dwelling, Townhouse			C	P	P	P	P	P	P	P	P	P	P	P	P	P				(C)(2)(a)(3)
Dwelling, Live-Work					C	C	P	P	P	P	P	P	P	P	P	P	P	P		(C)(2)(a)(4)
Dwelling, Multi-Family					P	P	P	P	P	P	P	P	P	P	P	C				(C)(2)(a)(5)
Group Living																				
Assisted Living Facility or Nursing Home					C	P	C	P	P	P	P	P	P	P	P	C				(C)(2)(b)(1)
Community Residential Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				(C)(2)(b)(2)
Dormitory						P		C	C	P	C	P	C	P	C	C				(C)(2)(b)(3)
Group Living, Other					C	C	C	C	C	C	C	C	C	C	C	C				(C)(2)(b)(4)
Rooming House									C	C	C	C	C	C	C					(C)(2)(b)(5)
CIVIC & INSTITUTIONAL USES																				
Cemetery																			C	(a)
Club							P	P	P	P	P	P	P	P	P	P	P			(C)(3)(b)
Community Center				V	P	P	P	P	P	P	P	P	P	P	P	P	P			(C)(3)(c)
Cultural Facility		V	V	V	C	C	P	P	P	P	P	P	P	P	P	P	P	P		(C)(3)(d)
Day Care Center			V	V	C	C	P	P	P	P	P	P	P	P	P	P	P	A		(C)(3)(e)
Higher Education Institution						C	C	C	P	P	P	P	P	P	P	P	P			(C)(3)(f)
Hospital						C	C	C	C	P	P	P	C	C	C	C	C			(C)(3)(g)
Natural Area or Preserve																			P	(C)(3)(h)
Park or Playground	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(C)(3)(i)
Police or Fire Station			V	V	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(C)(3)(j)
Public Utility or Services, Major																	C	P		(C)(3)(k)
Public Utility or Services, Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(C)(3)(l)

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	R-1L	R-1M	R-2	R-T	R-M	R-V	MU-NE	MU-NC	MU-CU	MU-CH	MU-DT	MU-CI	MU-FW	MU-FC	MU-FS	MU-FM	I-1	I-2	LC	
District Standards 375-2	(C)(1)(d)	(C)(2)(d)	(C)(3)(d)	(C)(4)(d)	(C)(5)(d)	(C)(6)(d)	(D)(1)(d)	(D)(2)(d)	(D)(3)(d)	(D)(4)(d)	(D)(5)(d)	(D)(6)(d)	(D)(7)(d)	(D)(8)(d)	(D)(9)(d)	(D)(10)(d)	(E)(1)(d)	(E)(2)(d)	(E)(3)(d)	
LAND USE CATEGORY																				
Religious Institution	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C		(C)(3)(m)
School	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C				(C)(3)(n)
Stadium or Arena									C	C	C	A	C	C	C	A	C	C		(C)(3)(o)
Towers	A	A	A	A	A	A	A	A	A	C	A	A	A	A	A	A	C	C		(C)(3)(p)
COMMERCIAL USES																				
Agriculture & Animal-Related																				
Agriculture, Urban	C	C	P	P	A	A	A	A	A	A	A	P	A	A	A	A	A			(C)(4)(a)(1)
Plant Nursery										C		A					P	P	C	(C)(4)(a)(2)
Veterinarian or Kennel										P	A	A	P	P	P		P	P		(C)(4)(a)(3)
Food & Beverage Service																				
Bar or Tavern								C	P	P	P	C	P	P	P	C	V	V		(C)(4)(b)(1)
Restaurant							C	P	P	P	P	P	P	P	P	P				(C)(4)(b)(2)
Guest Accommodations																				
Bed and Breakfast	C	C	C	C	P	C	C	P	P	P	P	P	P	P	P	P				(C)(4)(c)(1)
Hotel					V	V	V	C	P	P	P	C	P	P	P	P	V	V		(C)(4)(c)(2)
Office & Services																				
Funeral Home or Crematorium							V	C	C	P	C	V	V	V	V	V				(C)(4)(d)(1)
Office							P	P	P	P	P	P	P	P	P	P	P	A		(C)(4)(d)(2)
Personal or Business Service							C	P	P	P	P	P	P	P	P	P	P	P		(C)(4)(d)(3)
Trade School								C	P	P	P	P	P	P	P	P	P	P		(C)(4)(d)(4)
Recreation & Entertainment																				
Adult Entertainment																		P		(C)(4)(e)(1)
Indoor Recreation or Entertainment							C	P	P	P	P	P	P	P	P	P	V	V		(C)(4)(e)(2)
Outdoor Recreation or Entertainment										P	C	P	C	C	C	C	C	C	C	(C)(4)(e)(3)
Retail																				
Adult Retail										C							C	P		(C)(4)(f)(1)
Convenience Retail								P	P	P	P	P	P	P	P	P	P			(C)(4)(f)(2)
General Retail							C	P	P	P	P	P	P	P	P	P	A	A		(C)(4)(f)(3)
Controlled Substance Dispensary										C		C	C	C			P	P		(C)(4)(f)(4)
Pawn Shop										C							P			(C)(4)(f)(5)

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	R-1L	R-1M	R-2	R-T	R-M	R-V	MU-NE	MU-NC	MU-CU	MU-CH	MU-DT	MU-CI	MU-FW	MU-FC	MU-FS	MU-FM	I-1	I-2	LC	
District Standards 375-2	(C)(1)(d)	(C)(2)(d)	(C)(3)(d)	(C)(4)(d)	(C)(5)(d)	(C)(6)(d)	(D)(1)(d)	(D)(2)(d)	(D)(3)(d)	(D)(4)(d)	(D)(5)(d)	(D)(6)(d)	(D)(7)(d)	(D)(8)(d)	(D)(9)(d)	(D)(10)(d)	(E)(1)(d)	(E)(2)(d)	(E)(3)(d)	
LAND USE CATEGORY																				
Specialty Retail							P	P	P	P	P	P	P	P	P	P	A			(C)(4)(f)(6)
Supermarket									P	P	P	C	P	P	P	P	P			(C)(4)(f)(7)
Vehicles & Equipment																				
Automobile Wash										P	A	A		C			C	P		(C)(4)(g)(1)
Dispatch Service or Freight Truck Terminal										C		A	C				P	P		(C)(4)(g)(2)
Heavy Vehicle and Equipment Sales, Rental, and Servicing													C				P	P		(C)(4)(g)(3)
Light Vehicle Sales, Rental, and Servicing										P	C	A	C	P	C		P	P		(C)(4)(g)(4)
Parking Lot	A	A	A	A	A	A	A	A	A	A	C	A	A	A	A	A	P	P	A	(C)(4)(g)(5)
Parking Structure	A	A	A	A	A	A		C	A	A	P	P	P	P	P	P	P	P	A	(C)(4)(g)(6)
Transit Facility										C	P	A	A	A	A	A	P	P		(C)(4)(g)(7)
Vehicle Fueling Station								C	C	P		A	C	C	C	C	P	P		(C)(4)(g)(8)
INDUSTRIAL USES																				
Commercial Services																				
Heavy Commercial Services										C		C	P				P	P		(C)(5)(a)(1)
Self-Storage Facility									C	P	C	C	C	C	C	C	P	P		(C)(5)(a)(2)
Storage and Wholesale Distribution										C		C	P				P	P		(C)(5)(a)(3)
Manufacturing, Production, & Extraction																				
Artisan Manufacturing								C	P	P	P	P	P	P	P	P	P	P		(C)(5)(b)(1)
Heavy Manufacturing																		P		(C)(5)(b)(2)
Light Manufacturing										C			P				P	P		(C)(5)(b)(3)
Marijuana Manufacturing Facility													P				P	P		(C)(5)(b)(4)
Waste & Salvage																				
Recycling Drop-Off Center					A	A	A	A	C	C	A	A	A	A	A	A	P	P		(C)(5)(c)(1)
Landfill																		C		(C)(5)(c)(2)
Vehicle Towing, Wrecking, or Junkyard																		C		(C)(5)(c)(3)
Waste/Recycling Processing Facility																	C	P		(C)(5)(c)(4)

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District Standards 375-2	(C)(1)(d)	(C)(2)(d)	(C)(3)(d)	(C)(4)(d)	(C)(5)(d)	(C)(6)(d)	(D)(1)(d)	(D)(2)(d)	(D)(3)(d)	(D)(4)(d)	(D)(5)(d)	(D)(6)(d)	(D)(7)(d)	(D)(8)(d)	(D)(9)(d)	(D)(10)(d)	(E)(1)(d)	(E)(2)(d)	(E)(3)(d)	
LAND USE CATEGORY																				
ACCESSORY USES																				
Accessory Dwelling Unit	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		(C)(6)(a)
Alternative Energy Generation Equipment or Facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(b)
Cabaret							A	A	A	A	A	A	A	A	A	A	A	A		(C)(6)(c)
Composting of Household Waste Generated on Site	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				(C)(6)(d)
Customary Accessory Uses and Related Structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(e)
Day Care Home	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(f)
Delivery Service							A	A	A	A	A	A	A	A	A	A	A	A		(C)(6)(g)
Drive-In or Drive-Through Facility									C	A	A	A	A	A	A		A	A		(C)(6)(h)
Electric Vehicle Charging Station					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(i)
Home Occupation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				(C)(6)(k)
Rain Barrel	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				(C)(6)(m)
Sidewalk or Outdoor Cafe							A	A	A	A	A	A	A	A	A	A	A			(C)(6)(n)
Storage Shed	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(o)
Swimming Pool	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				(C)(6)(p)
Telecommunication Antenna or Satellite Dish as an Accessory Use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(o)
Trash Storage, Outdoor	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(p)
TEMPORARY USES																				
Farmers' Market					T	T	T	T	T	T	T	T	T	T	T	T	T			(C)(7)(a)
Mobile Vendor									T	T	T	T	T	T	T	T	T	T	T	(C)(7)(b)
Portable Storage Container	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	(C)(7)(c)
Temporary Construction Office or Yard	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	(C)(7)(d)
Temporary Real Estate Sales/Leasing Office	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	(C)(7)(e)
Temporary/Seasonal Sales/Activity	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		(C)(7)(f)

(C) USE-SPECIFIC STANDARDS

(1) GENERAL

(a) All uses shall comply with City ordinances regulating noise, odors, vibration, glare, heat, and other nuisance generating conditions negatively affecting other properties, as well as the requirements of Section 375-4(J) (Operating and Maintenance) unless specifically exempted from one or more of those requirements.

(b) In addition to any other applicable regulations, the following Use-Specific Standards shall apply where the particular section is referenced in the far right column of Table 375-3-1: Permitted Use Table).

(2) RESIDENTIAL USES

(a) HOUSEHOLD LIVING

(i) DWELLING, SINGLE-FAMILY DETACHED

A. A Manufactured Home that is less than 18 feet in width is only permitted in a mobile home park of manufactured home park existing on June 1, 2017.

(ii) DWELLING, TWO-FAMILY DETACHED

A. No single-family detached dwelling may be converted to a two-family detached dwelling without approval of a Conditional Use Permit. No Conditional Use Permit for such conversion shall be approved unless it is determined that:

1. The lot on which the dwelling structure is located contains at least the minimum lot area required in the zone district where the structure is located.
2. The dwelling structure contains no fewer than 1,600 square feet of living space, and after the conversion no dwelling unit in the structure shall contain less than 600 square feet of living space.
3. After the conversion, there shall not be more than the maximum number of dwelling units that are permitted in the zone district where the structure is located.
4. If required as a result of the conversion, no fire escape or second means of egress shall be attached to that portion of the dwelling bordering the front yard and visible from the street right-of-way.

(iii) DWELLING, TOWNHOUSE

A. [Reserved]

(iv) DWELLING, LIVE-WORK

A. The building may be used for both residence and for a business that does not qualify as a home occupation being conducted by a resident of the building, but shall not include the following business activities:

1. Any lodging use;
2. Any motor vehicle-related use;

3. Animal agricultural or animal-related use;
4. Any food, beverage, or indoor entertainment use;
5. Adult retail;
6. Liquor store;
7. Funeral Home or crematorium;
8. Outdoor storage as a primary use; or
9. Any industrial use except artisan manufacturing.

B. Portions of the structure used for residential and nonresidential uses shall have a connection between them located inside the building.

C. A wall sign no more than two square feet in size and located no higher than the first floor of the building is permitted.

(v) **DWELLING, MULTI-FAMILY**

A. After June 1, 2017, any multi-family structure containing more than 20 dwelling units:

1. Shall include outdoor or indoor passive or active recreation space(s) that total at least 10 percent of the site area; and
2. Shall provide on-site laundry facilities.

B. In the area bounded by Myrtle Avenue, Lark Street a perpendicular line drawn 100 feet southerly of the Madison Avenue right-of-way, and the rear boundary of lots fronting on New Scotland Avenue, this use is only permitted in a new structure constructed after June 1, 2017.

C. In the R-2 or R-T districts, a structure that was originally designed and constructed as a multifamily dwelling shall be considered legally conforming as to the number of units for which it was originally designed, but shall be required to meet building code requirements as to the size and construction of each unit.

(b) **GROUP LIVING**

(i) **ASSISTED LIVING FACILITY OR NURSING HOME**

A. [Reserved]

(ii) **COMMUNITY RESIDENTIAL FACILITY**

A. A facility housing more than eight unrelated individuals receiving services, plus those providing services, is permitted only in the R-M, R-V and Mixed-Use zone districts.

B. A facility that would otherwise qualify as a Community Residential Facility but that houses more than 14 unrelated individuals receiving services shall be considered a "Group Living, Other" use, but shall not be subject to the minimum spacing requirements in Section 375-3(C)(b)(iv).

C. Notwithstanding other provisions of this USDO, in those zoning districts where Community Residential Facilities are permitted uses, the dimensional and design standards applicable to a facility occupied by or constructed for those uses shall be the same as those dimensional and design standards applicable to the type of structure being constructed or occupied (e.g. single-family detached, two-family detached, townhouse, or multi-family) if it were occupied by a Household Living use.

(iii) **DORMITORY**

A. A resident manager who lives onsite shall be employed or appointed in a full- or part-time capacity.

B. Kitchen facilities, common areas for meeting and social space, or handicap accessibility may be expanded by 10 percent of the floor area or 1,000 square feet, whichever is less, without securing or modifying a Conditional Use Permit if current parking standards are met.

(iv) **GROUP LIVING, OTHER**

A. After June 1, 2017, no new group living facility shall be located within 500 feet of an existing group living facility.

(v) **ROOMING HOUSE**

A. A unit within a building containing multiple single room dwelling units may be occupied by only one person if the unit is less than 100 square feet, and by no more than two persons if the unit is larger than 100 square feet.

(3) CIVIC AND INSTITUTIONAL USES

(a) CEMETERY

(i) [Reserved]

(b) CLUB

(i) Any food and beverage service provided by a club, including alcohol, shall be served on the premises and limited to dues-paying members and their guests.

(c) COMMUNITY CENTER

(i) In zone district(s) where this is shown as a V use, a V use may only be approved in an existing structure that was not originally constructed as a single-family detached or two-family detached dwelling.

(d) CULTURAL FACILITY

(i) In zone district(s) where this is shown as a V use, a V use may only be approved in an existing structure that was not originally constructed as a single-family detached or two-family detached dwelling.

(e) DAY CARE CENTER

(i) In zone district(s) where this is shown as a V use, a V use may only be approved in an existing structure that was not originally constructed as a single-family detached or two-family detached dwelling.

(f) HIGHER EDUCATION INSTITUTION

(i) [Reserved]

(g) HOSPITAL

(i) [Reserved]

(h) NATURAL AREA OR PRESERVE

(i) [Reserved]

(i) PARK OR PLAYGROUND

(i) [Reserved]

(j) POLICE OR FIRE STATION

(i) [Reserved]

(k) PUBLIC UTILITY OR SERVICES, MAJOR

(i) [Reserved]

(l) PUBLIC UTILITY OR SERVICES, MINOR

(i) [Reserved]

(m) RELIGIOUS INSTITUTION

(i) [Reserved]

(n) SCHOOL

(i) [Reserved]

(o) STADIUM OR ARENA

(i) In the MU-CU district, this use is limited to existing buildings originally designed and constructed for nonresidential uses.

(p) TOWERS

(i) TELECOMMUNICATION TOWERS

A. REGULATORY COMPLIANCE

All antennas and towers shall meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), Federal Communications Commission (FCC) and any other state or federal agency with the authority to regulate communications antennas and towers. Should such standards or regulations be amended, then the owner shall bring such devices and structures into compliance with the revised standards or regulations within the time period mandated by the controlling agency.

B. SECURITY

All antennas and towers shall be protected from unauthorized access by appropriate security devices. A description of proposed security measures shall be provided as part of any application to install, build or alter antennas or towers. Additional measures may be required as deemed necessary by the decision-making body.

C. LIGHTING

Antennas and towers shall not be lighted unless required by the FAA or other state or federal agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application to install, build or alter the antenna or tower. Strobe lights shall not be used unless required by the FAA or other state or federal agency with authority to regulate.

D. ADVERTISING

Placement of advertising on structures regulated by this Section 375-3(C)(3)(p)(i)is prohibited.

E. COLLOCATION

1. All new towers shall be structurally and mechanically capable of accommodating the antenna or array of antennas of more than one provider based upon the following tower heights:
   a. 40 to 120 feet – shall support at least four antenna arrays;
   b. 121 to 150 feet – shall support at least five antenna arrays; and
   c. Greater than 151 feet – shall support at least six antenna arrays.
2. All applications for collocation of an additional antenna on an existing structure that constitute an "eligible facilities" request, and that do not constitute a "substantial change" to the existing structure, as those terms are defined in federal law, shall be approved by the City administratively within 60 days after receipt of an application for such collocation.

F. HEIGHT

The height of a tower shall be governed by the underlying zoning district; however, when rendering its decision on a Conditional Use approval for a new tower, the Board may allow an increase in height as required to allow effective functioning of the equipment, as required by the federal Telecommunications Act.

G. COLOR AND FINISH

Towers shall maintain a galvanized steel finish or, subject to the requirements of the FAA or any applicable state or federal agency, be painted a neutral color consistent with the natural or built environment of the site.

H. SCREENING

Equipment shelters, cabinets and guy anchors shall be screened from view by a permanent screen consisting of an architecturally compatible masonry wall, wood fence, landscaping material, or combination thereof, at least eight feet in height. The required screening shall have an opacity of 80 percent year around and, if landscaping is used, the 80 percent opacity and eight-foot minimum height shall be achieved within four full growing seasons. Screening shall be compatible with the architectural style of the surrounding structures to the maximum extent practicable.

I. SETBACKS

All towers shall meet the setback and yard requirements of the applicable zoning district. In addition, all towers shall be separate from any off-site residential structure, or the boundary of any residentially zoned property, either (a) a distance equal to the height of the tower, or (b) if the tower is of a self-collapsing design, then the maximum distance from the base of the tower that any portion of the tower could fall, based on information provided by the tower manufacturer.

J. ANCHORING

Ground anchors of all guyed towers shall be located on the same parcel as the tower and meet the setbacks of the applicable zoning district. All such wires shall be visible and protected at ground level.

K. CABINETS

The horizontal dimensions of a communication equipment cabinet shall not exceed four feet by six feet.

L. REPLACEMENT

The replacement or modification of any tower, on the same site, is permitted so long as the purpose of the replacement is to accommodate shared use of the tower or to eliminate a safety hazard and a building permit for the replacement is obtained.

M. OBSOLETE TOWER STRUCTURES AND ANTENNAS

1. If the Chief Planning Official determines, based on the location or cost of a telecommunications tower, or the past performance of the applicant or telecommunications tower operator, that there is significant risk that the telecommunications tower may not be removed at the owners expense after it has been not active antennas for a period of 12 months, the Chief Planning Official may require that the applicant provide financial guarantees or a bond in an amount adequate to cover the costs of removal by the City. If such financial guarantee or bond is required and provided, and the telecommunications structure is later removed at the owner's expense, the City shall release the financial guarantee or bond.
2. Any tower or disguised support structure that is not occupied by active antennas for a period of 12 months or any antenna that is not used for a period of 12 months shall be removed at the owner's expense. The Chief Planning Official is authorized to order the owner of any private property to remove any unused tower or antenna on the owner's property within a reasonable time specified by the Chief Planning Official. The order shall require the tower or antenna to be removed unless the owner, within ten days of receipt of the order, appeals the matter to the Board of Zoning Appeals pursuant to Section 375-5(D)(12)(b) (Appeal). If the Board finds that a tower has not been occupied by active antennas for 12 months or an antenna has not been used for 12 months, it shall order the tower or antenna to be removed within a specified time.
3. If the unused tower or antenna is not removed as specified in an unappealed order of the Chief Planning Official or as specified by the Board, the Chief Planning Official may cause the tower or antenna to be removed. The Chief

Planning Official shall submit the actual cost of such removal to the owner of the property. If the owner does not pay the cost within 30 days of receipt, the Chief Planning Official shall certify the cost to the City who shall cause a special tax bill against the property to be prepared and collected. The tax bill shall be due and payable from the date of issuance and shall be a lien on the property from the date of issuance until paid. Tax bills issued pursuant to this section shall bear interest from the date of issuance at the rate of nine percent per annum.

N. **CONDITIONAL USES**

Decisions on applications for Conditional Use Permits for the collocation of an additional antenna or equipment on an existing tower shall be made within 90 days after receipt of a complete application. Decision on applications for Conditional Use Permits for the erection of a new communications tower shall be made within 150 days after receipt of a complete application.

(ii) **TOWER STRUCTURES, OTHER**

A. The exterior appearance of all accessory buildings shall be similar to the predominant building materials in the surrounding area.

B. Towers shall not be lighted unless the FAA requires or requires that obstruction lighting be installed, and shall be shielded to the extent permitted by the FAA.

C. Towers and antennas shall be neutral in color unless obstruction marking is required by the FAA.

D. No advertising sign or logo shall be permitted on any tower.

E. In Residential districts, accessory buildings shall not be used as the regular place of employment for any worker.

F. Off-street parking is not required. However, if off-street parking is provided, it shall meet the requirements of Section 375-4(F) (Landscaping, Screening and Buffering).

G. The following additional standards apply where this use is listed as an accessory use.

1. Where this use is listed as an accessory use in the Residential districts, it is limited to amateur (non-commercial) radio and other antennas that do not meet the definition of a telecommunications tower.

2. Where this use is listed as an accessory use in the Mixed-use or Special Purpose districts, it is limited to radio and other antennas that do not meet the definition of a telecommunications tower.

3. All installations shall be ground-mounted.

4. The height of a tower shall be governed by the underlying zoning district.

5. Placement, including all screening treatments at the base and guy wire bases, shall be in the rear yard of the property and shall maintain a minimum ten foot setback from all lot lines.

6. Equipment shelters, cabinets, and guy anchors shall be screened from view by a permanent screen consisting of a masonry wall, wood fence, landscaping

material, or combination of those features, at least eight feet in height. The required screening shall have an opacity of 80 percent year-round and, if landscaping is used, the 80 percent opacity and eight foot minimum height shall be achieved within four full growing seasons.

(4) COMMERCIAL USES

(a) AGRICULTURE AND ANIMAL RELATED

(i) AGRICULTURE, URBAN

A. Greenhouses are not permitted in the Residential zone districts.

B. In those zone districts where they are permitted, greenhouses, hoop houses, cold frames, storage sheds, and other accessory structures are limited to a maximum height of 12 feet, shall be set back at least five feet from any abutting lot with an occupied residential use.

C. The cumulative area covered by structures more than four feet above grade shall not exceed 25 percent of the site (for a principal use) or 25 percent of the side yard or back yard area in which the structures are located, and which are not already occupied by an accessory structure (for an accessory use).

D. Operation of power equipment or generators is not permitted in the Residential zone districts other than on a temporary emergency basis, or for routine maintenance. In those zone districts where they are permitted, operation of power equipment or generators may occur between 7:00 am and no later than 10:00 pm.

E. Sales of products grown on-site is permitted on-site, provided that the structure used for sales is no larger than 100 square feet and is not located in a required front setback area.

F. Food products may be grown in soil present on the site if:

1. The City determines through Sanborn Insurance maps or other maps, deeds, prior permits or a combination of those sources that the site has only been put to residential or agricultural use in the past; or

2. A composite sample of the soil, consisting of no fewer than five individual subsamples from 0-6 inches in depth collected from throughout the site or proposed growing area, has been tested by a laboratory certified by the State of New York Environmental Laboratory Approval Program for lead content using the appropriate method and that lead content of the sample to be less than 200 ppm; or

3. For sites or growing areas less than one acre in size, five individual samples of the soil from 0-6 inches in depth collected from throughout the site or proposed growing area are tested for the metals arsenic, barium, cadmium, chromium, copper, lead, mercury, nickel, and zinc, and their concentrations are determined to be at or below the thresholds listed in the tables in Section 375-3(C)(4)(a)(i)(G) below, as amended. For sites or proposed growing areas from one to two acres in size, 10 samples shall be tested; for sites two to three acres in size, 15 samples shall be tested. All results and a map showing sampling locations within the site shall be provided to the City; or

4. As an alternative to meeting the standards below, the site may be used for growing food products in clear soil (as established by testing or other means) 12 or more inches deep is added (e.g., in raised beds) to any portion of the site to be used for that purpose with an underlayment of landscape fabric at least 22mm thick, and any adjacent pathways and any exposed soil are covered with grass, ground cover, mulch, clean soil and/or landscape fabric.

G. Soil shall be tested by a laboratory certified by the State of New York for metal content using the appropriate method. Gardening may be conducted if the test results for all samples and all metals are below the levels identified in the following table. Note that New York State Residential Soil Cleanup Objective values listed below may be amended from time to time, and the latest levels should be used.

Metal Name	New York State Residential Soil Cleanup Objectives (parts per million)
Arsenic	16
Barium	350
Cadmium	2.5
Chromium	36
Copper	270
Lead	400
Mercury	.81
Nickel	140
Zinc	2200

(ii) **PLANT NURSERY**

A. [Reserved]

(iii) **VETERINARIAN OR KENNEL**

A. Veterinary facilities shall be limited to serving domestic pets and household animals except within the I-1 and I-2 districts.

B. No such use shall be located closer than 300 feet to any Residential district, unless all animals are kept indoors.

(b) **FOOD AND BEVERAGE SERVICE**

(i) **BAR OR TAVERN**

A. [Reserved]

(ii) **RESTAURANT**

A. Any bar area shall be secondary and incidental to food service.

B. No restaurant shall continue to serve alcohol for more than one hour after the normal menu food service has closed, or shall seek approval to operate as a bar or tavern.

C. Restaurants shall be required to obtain a permit from the Albany County Department of Health pursuant to Part 14-1 of the New York State Sanitary Code and Article IV of the Albany County Sanitary Code, or other such prevailing regulations.

(c) Guest Accommodations

(i) Bed and Breakfast

A. No alteration to either the exterior or the interior of any principal or accessory structure shall be made to change the character and appearance of the residential premises.

B. No more than seven guest rooms shall be allowed in the R-1L, R-1M, R-2, and R-T districts.

C. Guest(s) may not stay at the bed and breakfast for a period exceeding 14 consecutive days.

(ii) Hotel

A. In zone district(s) where this is shown as a V use, a V use may only be approved in an existing structure that was not originally constructed as a single-family detached or two-family detached dwelling.

B. Facilities where individual guest rooms have direct access to an outdoor area – rather than accessing guest rooms from an interior hallway or corridor – shall only be permitted in the MU-CH zone district.

(d) Office and Services

(i) Funeral Home or Crematorium

A. [Reserved]

(ii) Office

A. If an Office use involves dangerous or hazardous materials and/or procedures subject to federal or state safety regulations, then a Conditional Use permit shall be required.

B. If the use includes the selling or providing of transportation services, it shall include an inside waiting area large enough to accommodate all passengers expected to be awaiting transportation and shall include an off-street loading area large enough to accommodate all vehicles providing transportation. Loading of transportation vehicles larger than a passenger car or light truck on the public right-of-way shall not be permitted.

(iii) Personal or Business Service

A. Tattoo parlors are subject to regulation pursuant to New York State Public Health Law Article 4-A, Albany County Local Law 4 for 1999, or other such prevailing regulations.

B. Tanning facilities are subject to regulation pursuant to New York State Public Health Law, Article 35-A or other such prevailing regulations.

(iv) Trade School

A. [Reserved]

(e) Recreation and Entertainment

(i) Adult Entertainment

A. Adult entertainment establishments shall be located at least 1,000 feet from a religious institution, a school, a residential zoning district or a park, playground or playing field.

B. Adult entertainment establishments shall be located at least 1,000 feet from another adult entertainment establishment.

C. Adult entertainment establishments shall not exceed 10,000 square feet of floor area.

(ii) Indoor Recreation or Entertainment

A. Conditional Use approval pursuant to Section 375-5(E)(16) (Conditional Use Permit) shall be required when adjacent to any Residential district.

B. Conditional Use approval pursuant to Section 375-5(E)(16) (Conditional Use Permit) shall be required for indoor recreation or entertainment uses of 15,000 square feet or greater.

(iii) Outdoor Recreation or Entertainment

A. [Reserved]

(f) Retail

(i) Adult Retail

A. Adult retail establishments shall be located at least 1,000 feet from a religious institution, a school, a residential zoning district or a park, playground or playing field.

B. Adult retail establishments shall be located at least 1,000 feet from another adult entertainment or retail establishment.

C. Adult retail establishments shall not exceed 10,000 square feet of floor area.

(ii) Convenience Retail

A. After June 1, 2017, no new Convenience Retail use shall be located within 1000 feet of an existing Convenience Retail use.

B. The owner of the property shall keep on file with the Police Department and the Department of Buildings and Regulatory Compliance the following information, and shall keep the information provided to those departments current at all times:

1. The name, address, telephone, and electronic notice information of the owner of the property and the operator of the convenience store (if it is not the property owner).

2. If the property owner resides more than 30 miles away from the property, the name, address, telephone, and electronic notice information for a designated local contact located closer to the property and authorized to accept and respond to any complaints about the operation of the property or business.

C. Any use established or first occupying a property after June 1, 2017, shall be required to comply with the following standards before a Certificate of Occupancy will be issued. Any use established or first occupying a property before June 1, 2017, shall be required to comply with the following standards within two years after June 1, 2017.

1. Install a surveillance camera system with at least three cameras: one overlooking the cash register; one overlooking each public entrance to the convenience store; and one overlooking any on-site parking area. Cameras shall be operational 24 hours each day or shall be triggered by motion detectors; recordings shall include the date and time the image was taken, and shall be retained for at least 30 days after each image is taken. Only the owner and facility operator shall have access to the recorded images.
2. Install a drop safe bolted to the floor near the cash register in a location visible by the security camera overlooking the cash register.
3. Be designed to allow a clear line of site from the public right-of-way to each cash register area, and that clear line of site shall remain unobstructed by goods, materials, shelves, or anything hung from the ceiling or attached to a window or door.
4. Install trash receptacles in locations that are not visible from public rights-of-way.
5. Install signage near the front entrance (no larger than 1 square foot) that reads: No Loitering.
6. Keep the exterior of the premises free of vending machines, merchandise, or open storage.
7. Ensure that in compliance with Section 375-4(I)(4)(e), window signs do not obstruct more than 15 percent of any individual window, or collectively more than 10 percent of the window area on any floor of the building, exclusive of any notices required by federal, state, or local law.
8. All original window openings must be transparent and comply with Subsections 3 and 7 above.
9. Remove all litter from the premises, public sidewalks, curbs and alleys along the perimeters of the property, at least once each week.
10. Any Convenience Retail disallowed under the provisions of the Section 375-5(G)(5) shall not be reestablished within one year or closure and shall require a Conditional Use Permit to be reopened.

(iii) **GENERAL RETAIL**

A. Merchandise may not be displayed, stored, or offered for sale on any yard adjacent to a residential district or within a public right-of-way.

(iv) **CONTROLLED SUBSTANCE DISPENSARY**

A. **MARIJUANA DISPENSARY**

1. No person or entity shall produce, grow, or sell medical marijuana or hold itself out as a New York State registered organization unless it has complied

with Article 33 of the New York Public Health Law and this USDO, and is registered by the New York State Department of Health.

2. A registered organization shall only dispense approved medical marijuana products in accordance with Article 33 of the Public Health Law.
3. A registered organization shall only dispense approved medical marijuana products in an indoor, enclosed, secure facility.
4. A registered organization shall not dispense approved medical marijuana products from the same location where the marijuana is grown or manufactured.
5. A registered organization shall not locate a dispensing facility on the same street or avenue and within 1,000 feet of a building occupied exclusively as a school or religious institution. This measurement shall be taken in straight lines from the center of the nearest entrance of the premises sought to be used as a dispensary to the center of the nearest entrance of the school or religious institution.
6. Dispensaries shall not sell items other than approved medical marijuana products and related products necessary for the approved forms of administration of medical marijuana without prior written approval from the New York State Department of Health.
7. No approved medical marijuana products shall be vaporized or consumed on the premises of a dispensary.
8. All dispensaries shall have a security system to prevent and detect diversion, theft, or loss of marijuana and/or medical marijuana products, using commercial grade equipment.
9. Dispensaries shall be restricted to only a single external sign with only black and white colors that shall not be illuminated at any time.

B. **METHADONE DISPENSARY**

1. This facility shall not be permitted in locations where its busiest hours of operation would cause significant traffic congestion on any public street at peak traffic hours, as determined by the Albany Police Department, unless the facility may enter into an Agreement with the City to schedule or limit hours of operation to avoid such significant traffic congestion.

(v) **PAWN SHOP**

A. [Reserved]

(vi) **SPECIALTY RETAIL**

A. [Reserved]

(vii) **SUPERMARKET**

A. [Reserved]

(g) Vehicles and Equipment

(i) Automobile Wash

A. The establishment shall not be closer than 400 feet to a Residential district.

B. The establishment shall be located on a public street having a pavement width of not less than 36 feet and shall provide ingress and egress so as to minimize traffic congestion.

C. In addition to meeting the standard off-street parking and loading requirements, the establishment shall provide at least three off-street automobile waiting spaces on the lot in the moving lane to the automobile washing building entrance so as to reduce the number of automobiles waiting in the public right-of-way.

(ii) Dispatch Service or Freight Truck Terminal

A. [Reserved]

(iii) Heavy Vehicle and Equipment Sales, Rental and Servicing

A. [Reserved]

(iv) Light Vehicle and Equipment Sales, Rental and Servicing

A. All repair and service operations shall be performed within a fully enclosed building.

B. No motor vehicles shall be stored and no repair work shall be conducted within a public right-of-way.

C. In any zoning district, and notwithstanding any provision of Section 375-4(F)(8) (Walls and Fences) and Section 375-4(F)(9) (Screening of Service Areas and Equipment) to the contrary, the establishment shall be screened along the side and rear lot lines by an opaque wall or fence of at least six feet in height and no more than eight feet in height.

(v) Parking Lot

A. This use must meet all requirements for location, layout, and design of parking lots in Section 375-4(E) (Parking and Loading).

(vi) Parking Structure

A. This use must meet all requirements for location, layout, and design of parking structures in Section 375-4(E) (Parking and Loading).

(vii) Transit Facility

A. [Reserved]

(viii) Vehicle Fueling Station

A. For any service station located on a corner lot, only one curb cut per street frontage is permitted.

B. No access driveway curb cut shall exceed 25 feet in width.

C. All exterior light sources must be stationary and shielded, or recessed within the roof canopy, directed downward and away from adjacent residential districts and public streets.

D. If this use includes convenience retail activities, it shall be subject to those use-specific standards in Section 375-3(C)(4)(f)(ii) (Convenience Retail) except that any required separation distance from a Convenience Retail use shall not apply.

(5) INDUSTRIAL USES

(a) COMMERCIAL SERVICES

(i) HEAVY COMMERCIAL SERVICES

A. Outdoor storage shall only be permitted within the I-1 and I-2 districts and shall be screened according to the standards set forth in Section 375-4(F) (Landscaping, Screening and Buffering).

(ii) SELF-STORAGE FACILITY

A. All storage shall be kept within an enclosed building, except recreation or other oversized vehicles, compressed flammable gas tanks, or gasoline containers in excess of two gallons, which shall be stored only in exterior areas screened from the view from any street frontage.

B. Where the site is adjacent to residentially-zoned land, a permanent screen shall be required and shall conform to the provisions Section 375-4(F) (Landscaping, Screening and Buffering).

C. Storage of feed, fertilizer, grain, soil conditioners, pesticides, chemicals, explosives and other hazardous materials, asphalt, brick, cement, gravel, rock, sand and similar construction materials, inoperable vehicles, or bulk storage of fuels is prohibited.

D. The use of power tools, paint sprayers, or the servicing, repair or fabrication of furniture, boats, trailers, motor vehicles, lawn mowers, appliances and other similar equipment shall be prohibited, other than for the repair and maintenance of the facility itself.

E. In all zone districts except the MU-CH, I-1, and I-2 districts, this us must be conducted in a facility where access to individual storage units is from an internal hallway or walkway. The facility shall not permit individual storage units to be accessed through doorways or garage doors accessed from outside a primary or accessory building, However, the facility may include garage doors allowing access to internal vehicle loading/unloading areas that do not serve as storage areas.

(iii) STORAGE AND WHOLESALE DISTRIBUTION

A. The maximum single container capacity is 1,000 gallons.

B. The maximum aggregate multi-container storage capacity is 12,000 gallons.

C. Installations in excess of 1,000 gallons shall be installed below ground.

D. Aboveground installations shall be enclosed within a chain link fence with a minimum height of six feet and a minimum of two gates on opposite ends.

E. All outdoor storage facilities shall be enclosed by a solid fence or wall six feet in height and not less than ten feet from each lot line adequate to conceal such facilities and the contents stored from adjacent property.

F. No materials or wastes shall be deposited on any premises in a manner that they may be transferred off such premises by natural causes or forces.

G. All materials or wastes that might cause fumes, dust, that constitute a fire hazard, or that may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed, weather-tight containers.

H. Storage of inflammable, explosive liquids and gases, including but not limited to liquefied petroleum, shall comply with the New York State Uniform Fire Prevention and Building Code, and shall require the approval of the Albany Fire Department (in addition to compliance with all other provisions of this USDO).

I. In all other respects, the standards as set forth in Standard No. 58 of the National Fire Protection Association shall apply to this use.

J. Outdoor storage shall only be permitted within the Light Industrial (I-1) and General Industrial (I-2) districts and shall comply with the screening standards in Section 375-4(F) (Landscaping, Screening and Buffering).

K. This use may not be located in areas where truck access to or from the property is through local streets.

(b) Manufacturing, Processing and Extraction

(i) Artisan Manufacturing

A. No outdoor storage shall be permitted except in the I-1 and I-2 districts.

(ii) Heavy Manufacturing

A. All mining and related operations shall comply with Chapter 211, Article III (Mining Operations) of the City Code.

(iii) Light Manufacturing

A. No outdoor storage shall be permitted except in the I-1 and I-2 districts.

(iv) Marijuana Manufacturing Facility

A. No person or entity shall produce, grow, or sell medical marijuana or hold itself out as a New York State registered organization unless it has complied with Article 33 of the New York Public Health Law and this USDO, and is registered by the New York State Department of Health.

B. A registered organization shall only manufacture approved medical marijuana products in accordance with Article 33 of the Public Health Law.

C. A registered organization shall only manufacture approved medical marijuana products in an indoor, enclosed, secure facility.

D. A registered organization shall not dispense approved medical marijuana products from the same location where the marijuana is grown or manufactured.

E. All marijuana manufacturing facilities shall have a security system to prevent and detect diversion, theft, or loss of marijuana and/or medical marijuana products, using commercial grade equipment.

F. Marijuana manufacturing facilities shall be restricted to only a single external sign with only black and white colors that shall not be illuminated at any time.

(c) WASTE AND SALVAGE

(i) RECYCLING DROP-OFF CENTER

A. [Reserved]

(ii) LANDFILL

A. Hazardous waste material or natural gas exploration and production wastes shall not be deposited in any landfill facility.

(iii) VEHICLE TOWING, WRECKING OR JUNKYARD

A. Junkyards and vehicle towing or wrecking lots shall not be located within 500 feet of any Residential district.

B. The location, design and operation of the use shall comply with all applicable provisions of Section 136 of the New York State General Municipal Law.

(iv) WASTE/RECYCLING PROCESSING FACILITY

A. All scrap metal processing facilities shall be licensed as required by Chapter 239 of the City Code.

(6) ACCESSORY USES

(a) ACCESSORY DWELLING UNIT

No Accessory Dwelling Unit shall be approved until after the six month review of this USDO described in Section 375-5(E)(24)(d)(i) and shall not be automatic. This use is subject to the following standards:

(i) This use must be accessory to a single-family detached dwelling use, or, if located in a Mixed-Use or Special Purpose zoning district, shall be a caretaker unit for a nonresidential use.

(ii) The property owner shall occupy either the primary or the accessory dwelling unit as his or her primary residence.

(iii) No more than two dwelling structures, including structure containing an accessory dwelling unit, may be permitted on a single lot.

(iv) On corner lots, the accessory dwelling unit shall be set back from side streets not less than the distance required for the principal residence. For the purpose of providing adequate fire protection access, the distance from the nearest street frontage to the center of the rear wall of the accessory dwelling unit shall not exceed 150 feet of travel distance.

(v) An accessory dwelling unit shall not exceed 800 square feet of gross floor area.

(vi) A detached accessory dwelling unit shall not occupy more than 30 percent of the rear yard.

(vii) A detached accessory dwelling unit shall not exceed the height of the principal dwelling or 24 feet, whichever is less.

(viii) An accessory dwelling unit, whether detached or attached to a primary dwelling structure, may be directly accessed from an alley, but shall not be accessed via a driveway separate from that serving the primary dwelling structure.

(ix) When an accessory dwelling unit is attached to a principal dwelling structure, only one entrance structure may face the front lot line.

(x) Within 30 days following the approval of a zoning clearance for an accessory dwelling unit, the property owner shall mail notice of the approval to the owner of each abutting property as shown on the most recent tax records.

(b) ALTERNATIVE ENERGY GENERATION EQUIPMENT OR FACILITY

(i) Installations of solar energy equipment in any Residential district, MU-NE or MU-NC district shall comply with the following requirements:

A. Placements of solar collectors on a gabled, hipped, or mansard roof shall be mounted parallel to and no more than 12 inches from the roof surface, and shall not extend more than 18 inches above the maximum permitted building height in the zone district.

B. Placement of solar collectors on flat roofs shall be allowed in non-historic districts, provided that panels do not extend more than 18 inches above the maximum building height permitted in the zone district, or 18 inches above the existing structure, whichever is less.

C. Installations in designated historic districts as shall require a certificate of appropriateness from the Historic Resources Commission under Section 375-5(E)(19) (Major Certificate of Appropriateness).

D. Installations of rooftop and building-mounted solar energy equipment in all other districts shall be permitted as an accessory use.

E. Building-integrated photovoltaic (BIPV) systems shall be permitted in all districts subject to all necessary permit and Building Code requirements.

F. Solar energy equipment shall be located in a manner to minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.

(ii) Ground-mounted solar collectors are permitted as accessory structures in all zoning districts, subject to the following requirements:

A. The solar collector is located in a side or rear yard.

B. The location of the solar collector meets all applicable setback requirements for accessory structures as identified in Section 375-4(A) (Dimensional Standards) or Section 375-4(B) (Form-Based Zoning Standards), as applicable.

C. The solar collectors do not emit unreasonable glare and negatively impact adjacent properties.

(iii) If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment no later than 90 days after the end of the twelve-month period.

(iv) Wind energy generating equipment may be installed in the side or rear yard area of any lot in the MU-CI, I-1, and I-2 zone districts, may extend up to 30 feet above the maximum permitted building height in those districts, and shall be set back from structures on adjacent lots a distance at least equal to the height of the wind generating equipment.

(v) Wind energy generating equipment may be installed in the rear yard area of any lot in any district other than the MU-CI, I-1, and I-2 zone districts, but are subject to the requirements of Section 375-4(A) (Dimensional Standards) or Section 375-4(B) (Form-based Zoning Standards), as applicable, and shall be set back from structures on adjacent lots a distance at least equal to the height of the wind generating equipment.

(c) CABARET

Dancing and/or the use of a disc jockey (DJ), karaoke machine, or live music entertainment that is amplified and/or performed by three or more people is permitted only where an establishment has sought and obtained a cabaret license from the City Clerk as set forth in Chapter 111 of the City Code.

(d) COMPOSTING OF HOUSEHOLD WASTE GENERATED ON SITE

(i) All compost containing food waste must be stored in weather-tight and rodent-proof containers.

(ii) Materials placed in composting containers may contain only organic and inorganic non-hazardous household waste, and may not contain meat and meat by-products.

(e) CUSTOMARY ACCESSORY USES AND RELATED STRUCTURES

This use is subject to the following standards.

(i) All accessory uses and structures must be clearly subordinate to the primary structure(s) and primary use(s) on the property.

(ii) All accessory uses and structures shall comply with all dimensional regulations (i.e. building height, lot coverage, and setbacks) applicable to the primary structure(s) on the property unless this USDO provides a specific exception to those regulations.

(iii) An accessory use may not begin operation before a permitted principal use or an approved conditional principal use begins operation on the property. An accessory structure may not be constructed before a permitted primary structure is constructed on the property.

(iv) In any residential district, a detached accessory structure shall not occupy more than 30 percent of a rear yard.

(v) A driveway to provide access to premises in commercial or industrial districts shall not be permitted through residential districts.

(f) DAY CARE HOME

In the Residential districts and residential dwelling units in Mixed-Use Districts, this use is subject to the following standards:

(i) No more than ten children unrelated to the operator shall be kept on the premises. Up to three additional children over the age of two may be kept for up to two hours per day. Up to three additional school-age children may be kept on unscheduled days of school closings; provided that at no time shall more than 13 children unrelated to the operator be kept there at one time.

(ii) The use shall be located in a dwelling used by the operator as his or her private residence.

(iii) The operator shall not employ more than one full-time (40 hours per week) assistant who does not reside on the premises or more than two half-time (20 hours per week) assistants who do not reside on the premises.

(iv) No advertising or identification sign shall be placed on the premises.

(g) DELIVERY SERVICE

(i) Businesses shall provide at least one off-street parking space per delivery vehicle or shall secure one dedicated on-street parking space per vehicle where approved by the Division of Traffic Engineering.

(h) DRIVE-IN OR DRIVE-THROUGH FACILITY

(i) In addition to complying with all requirements for design, layout, and vehicle stacking distances in Section 375-4(E) (Parking and Loading), any menu boards or order stations that are not attached to the primary building shall be oriented so that light and sound impacts are directed away from any adjacent lot in a Residential zone district.

(i) ELECTRIC VEHICLE CHARGING STATION

(i) [Reserved]

(j) HOME OCCUPATION

(i) The home occupation shall be located in the primary dwelling structure, or in an approved accessory building on the same lot, and shall not use more than 25 percent of the gross floor area of the dwelling unit or 500 square feet, whichever is less.

(ii) The home occupation shall only be operated by the person or persons maintaining the primary dwelling structure as their primary place of residence. For purposes of this provision only, "person" shall be limited to a natural person and shall not include any corporation, partnership, firm, association, joint venture, or other similar legal entity.

(iii) An approved home occupation shall automatically expire at such time as the applicant no longer maintains the primary dwelling structure in which the home occupation is located as their primary residence.

(iv) The home occupation use shall not display or create outside the building any evidence of the home occupation, except that one unanimated, non-illuminated flat or window sign having an area of not more than one foot shall be permitted inside or affixed to the building on each street front of the lot on which the building is situated.

(v) The home occupation shall not be conducted or advertised in a manner that generates a substantially greater volume of vehicular and pedestrian traffic than normally occurs in the residential district in which the home occupation is located.

(vi) No more than one employee or assistant in addition to the home occupant may be engaged on the premises in the home occupation at any given time. No other partner, principal or professional may be employed on site.

(vii) No alteration of the principal residential building shall be made that changes the character and appearance of the dwelling.

(viii) There shall be no outdoor storage of equipment or materials used in the home occupation.

(ix) Not more than one commercial vehicle shall be permitted in connection with any home occupation and shall be stored in an enclosed garage.

(x) No mechanical, electrical or other equipment that produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure shall be used.

(xi) If the home occupation produces any visible or audible impacts beyond the lot line on which it is located (including arrival and departure of delivery vehicles), the portion of the occupation generating the visible or audible impacts shall only operate between 8:00 am and 8:00 pm.

(xii) The following activities are not permitted as home occupations:

A. Automobile, vehicle, small engine, or heavy equipment repair or storage.

B. Dog grooming, care or boarding.

C. Custom sign shop.

D. Any business where the majority of revenue is from retail sales of goods to patrons who visit the premises to choose, purchase, or pick up those goods.

E. Any business that requires delivery of goods or materials, or shipping of finished goods, in a truck with a gross vehicle weight over 10,000 pounds, or that generates more than ten visits by a delivery truck of any size per week.

(k) RAIN BARREL

(i) [Reserved]

(l) SIDEWALK OR OUTDOOR CAFE

(i) Cafes located within 300 feet of a Residential district shall not be open for business before 8:00 a.m. and shall close by 11:00 p.m.

(ii) Where subsection (i) above does not apply, sidewalk or outdoor cafes located in nonresidential zoning districts shall not be open for business before 6:00 a.m. and shall close by 2:00 a.m., unless Section 375-2 (Zoning Districts) establishes different hours of operation for nonresidential uses, in which case the provisions of Section 375-2 shall apply.

(iii) Sidewalk or outdoor cafes shall not use music or noise amplification devices, and no music or entertainment of any type is permitted outdoors.

(iv) No outdoor cooking of any type is permitted in sidewalk or outdoor cafes.

(v) For sidewalk or outdoor cafes occupying a City property or right-of-way:

A. A Revocable Sidewalk Privilege must be obtained pursuant to Section 375-5(E)(9), or, if the City has not yet implemented the Revocable Street Privilege procedure, then a sidewalk café permit must be obtained pursuant to Chapter 303 of the City Code.

B. All fixtures and furnishings must be of a temporary nature, and must be brought in and stored or stacked and secured during nonoperational hours.

C. No objects, except a retractable awning and lighting fixtures, may be permanently attached to the exterior.

D. All planters, railings and fences must be temporary and not exceed a height of four feet.

E. No additional signage shall be permitted to be affixed to a cafe's temporary structures or accessories.

F. At least four feet or 50 percent of the total sidewalk width, whichever is larger, shall remain free of all obstructions to allow for pedestrian passage. This measurement is made from the outermost point of the cafe to the unobstructed inner edge of the curb, excluding brick or grass carpets, United States mailboxes, fire hydrants, bus shelters, street trees, and other fixed objects. The Chief Planning Official or Corporation Counsel may require that a larger space be left unobstructed if necessary to accommodate anticipated pedestrian volume in that location.

G. The area shall be cleaned, kept refuse-free, and no large containers for trash shall be placed on the cafe premises.

H. Pubic property shall not be altered in any way during the term of the Revocable Street Privilege. At the expiration of the term of the permit, all City-owned property shall be returned to the City in good condition, except for damage by the elements. The Chief Planning Official or Corporation Counsel may require the property owner to obtain and maintain liability insurance protecting the City from loss or damage based on Corporation Counsel's evaluation of potential risk to the City.

(m) STORAGE SHED

(i) In the Residential zone districts, the structure shall be no larger than 200 square feet in area.

(ii) In all zone districting districts, this structure shall not be located closer to any street than the primary building on the lot.

(n) SWIMMING POOL

(i) Must be erected on the same lot as the principal structure.

(ii) Must be erected in the rear yard of any principal structure on the same lot

(iii) Must be a minimum of six feet from any side lot line and a minimum of ten feet from the rear lot line.

(iv) The pool shall be enclosed in a manner consistent with the Building Code. Each pool shall be equipped with an integral filtration system and filter pumps or other mechanical devices, shall be so located, constructed, and operated as to not interfere with the peace, comfort, and repose of the occupant of any adjoining property. This requirement does not apply to temporary pools with non-rigid walls designed to be filled by garden hoses rather than a piped water connection, provided that the pool is not designed to contain water more than 18 inches deep.

(v) No lighting or spotlighting shall be permitted that is capable of projecting light beyond the boundaries of the lot on which said pool is located.

(o) TELECOMMUNICATIONS ANTENNA OR SATELLITE DISH AS AN ACCESSORY USE

The following uses shall be permitted in any zoning district subject to the issuance of a building permit:

(i) The installation of a satellite dish under one meter in diameter in any Residential, Mixed Use, or LC district

(ii) The installation of a satellite dish under two meters in diameter in the I-1 or I-2 districts.

(iii) The mounting of antennas that are covered or colored to match the color and texture of the background surface on any existing building or antenna support structure, provided that any antenna mounted on the exterior wall of a structure does not exceed the height of the wall. This shall not include the mounting of antennas on signs.

(iv) The construction of an enclosed support structure designed to match the color and texture of an existing adjacent accessory structure, provided that any support structure does not exceed the height of the adjacent support structure.

(v) The installation of antennas or towers on structures or land owned by the City.

(vi) The installation of satellite receiver dishes up to one meter in diameter in any zone district, and the installation of satellite receiver dishes up to two meters in diameter in any Mixed-Use or Special Purpose zone district, provided that the following conditions are met.

A. The satellite dish shall be located behind the back wall of a primary structure unless location in a side yard is required for proper functioning of the dish, in which case the satellite dish may be installed in a side yard.

B. Placement of the satellite dish must comply with setback requirements for accessory structures unless location in a side yard is required for proper functioning of the dish, in which case the satellite dish may be installed in a setback area.

C. No satellite dish shall be installed on a portable or movable structure, such as a trailer.

D. No satellite dish antenna shall be visible between ground level and six feet above ground level from any public right-of-way adjoining the lot. They shall be screened from view by a six-foot high wood fence, wall, or by natural evergreen vegetation. Berms may be employed in conjunction with the landscaping plan.

(p) TRASH STORAGE, OUTDOOR

All trash and recycling storage accessory to all multi-family buildings with more than four dwelling units and all buildings having a primary commercial or industrial use shall:

(i) Be enclosed on all sides so as not to be visible from a public street or other publicly-accessible area. At least one side of the enclosure must include a gate or door that can be securely closed.

(ii) For multi-family uses only, the required enclosure shall be sufficient based on the number of units, compaction capability, and frequency of trash pick-up.

(iii) The enclosure shall not be located in any required front yard, side yard, or other landscaped area, or any other area required to be maintained by applicable law.

(iv) Be architecturally compatible to the primary structure(s) and constructed using similar or compatible materials.

(v) If the trash or recycling enclosure is located within 50 feet of a Residential zone district, removal of trash or recycling materials by a commercial contractor is prohibited between the hours of 11:00 pm and 6:00 am.

(7) TEMPORARY USES

(a) FARMERS' MARKET

Temporary farmers' markets, open no longer than 10 hours per week, are permitted in all commercial districts, provided that there shall be no offensive odors or dust and there shall be no permanent outdoor storage of equipment or products.

(b) MOBILE VENDOR

(i) Mobile vendors that serve food or drinks shall be required to obtain a permit from the Albany County Department of Health pursuant to Part 14-4 of the New York State Sanitary Code and Article IV of the Albany County Sanitary Code, or other such prevailing regulation.

(ii) The operator shall have the written consent of the property owner to conduct the activity.

(iii) Mobile vendors may locate along the perimeter of approved off-street parking areas or upon undeveloped lots in nonresidential zone districts that have been vacant in excess of two years.

(iv) A mobile vendor shall not operate from a single private property for a period in excess of 30 days unless a Conditional Use Permit is obtained under Section 375-5(E)(16).

(v) If the mobile vendor serves food or drinks, waste receptacles shall be provided and waste shall be removed daily from the site by the mobile vending operator.

(vi) Outdoor seating may be provided, but none shall be permanently installed. Provision of seating on public rights-of-way shall require approval of a Revocable Street Privilege under Section 375-5(E)(9).

(c) PORTABLE STORAGE CONTAINER

(i) Portable storage containers are prohibited upon a lot within a Residential district or upon a vacant commercial lot, except where the containers provide necessary storage for an active construction project, are necessitated by an unforeseen and uncontrollable event, or to assist in moving in or out of a residence.

(ii) A portable storage container shall not be placed on any property more than two times per calendar year and not more than 30 days at a time. The Building Inspector may approve an extension of up to three months for good cause shown.

(iii) All portable storage containers shall be securely closed when not in use. No materials, property, or goods shall be stored outside of a container during the hours between sunset of one day and sunrise of the next day, except if the container is being used in conjunction with construction, and in such case only construction materials may be left outside of the container.

(d) TEMPORARY CONSTRUCTION OFFICE OR YARD

The temporary use shall be permitted from the time a building permit is approved until 30 days after a Certificate of Occupancy is issued.

(e) TEMPORARY REAL ESTATE SALES/LEASING OFFICE

(i) This use shall be located on property being sold or leased and limited to a period of sale or lease, but not exceeding two years.

(ii) The temporary use shall be permitted from the time a building permit is approved until 30 days after a Certificate of Occupancy is issued.

(f) TEMPORARY/SEASONAL SALES

(i) In any Residential district, not more than six garage or estate sales, each lasting no longer than 72 hours, shall take place within one calendar year at any residence.

(ii) A temporary art installation or "pop-up" facility that does not include retail sales activity is permitted for a period of no longer than one calendar week in any zone district.

Section 375-4 DEVELOPMENT STANDARDS

(A) DIMENSIONAL STANDARDS

(1) APPLICABILITY

(a) Unless otherwise stated in this USDO, the requirements in this Section 375-4(A) shall apply to all buildings, lots, and land in all zoning districts.

(b) If the provisions of this Section 375-4(A) conflict with the provisions of Section 375-4(B) (Form-Based Zoning Standards) applicable to the MU-FW, MU-FC, MU-FS, or MU-FM zone districts, the provisions of Section 375-4(B) shall apply.

(c) No development plan shall be approved and no permit shall be issued for the erection or occupancy of a building or structure unless the development conforms to the dimensional standards of this Section 375-4(A).

(d) No part of a yard or other open space required to comply with the provisions of this Section 375-4(A) shall be counted towards meeting the yard or open space requirements of another building.

(e) Any encroachments into the public right-of-way shall require approval by the City and an agreement with the City that the property owner(s) shall be accept any and all liability for accidents or damage occurring in the public right-of-way due to the encroachment or related activity.

(f) In the R-1L, R-1M, R-2, R-T, and R-M districts, only one principal structure is permitted on a platted lot. In other zone districts, more than one principal structure is permitted on a platted lot if each primary structure complies with all applicable dimensional standards or with the provisions of an approved District Plan.

(2) GENERAL

(a) SETBACK AND YARD REQUIREMENTS

(i) In all zone districts except the MU-FM, MU-FC, MU-FS, and MU-FM zones, minimum building setbacks shall apply to all portions of each building, except for encroachments and exceptions permitted by Section 375-4(A)(5).

(ii) The building setback areas required under this Section 375-4 shall be unobstructed from their lowest point to the sky, except for fences, landscaping, and other building features specified in this Section 375-4.

(iii) Accessory structures shall comply with required front setbacks for the principal building to which they are accessory.

(iv) Accessory structures shall be set back a minimum of two feet from side and rear lot lines, excepting the following circumstances:

A. Where Section 375-4(A)(5) (Encroachments and Exceptions) permits a smaller exception; and

B. In the R-T district, side and rear setbacks shall not apply.

(v) In addition to the dimensional standards in this Section, landscaped buffers may be required per Section 375-4(F).

(b) IMPERVIOUS SURFACE

Because some areas of the city are subject to combined sewer overflows and to surface stormwater flooding, it is important that the maximum amount of impervious surface on each lot is carefully regulated. Each dimensional table in subsection (3) below contains maximum impervious surface limits designed to reduce off-site flows into the city's stormwater system by allowing a significant percentage of rainfall to infiltrate into the soil on individual lots and parcels. Section 375-4(A)(4)(a)(ii) (Low Impact Development) provides incentives for those developments that further reduce the amount of off-site stormwater flows through the use of Low Impact Development.

(c) EMERGENCY VEHICLE ACCESS

All buildings or groups of buildings in all zoning districts shall be constructed with an approved emergency vehicle access. Access to any building or structure that does not abut a public right-of-way shall have a width of at least 20 feet and vehicle clearance of 14 feet.

(3) DIMENSIONAL STANDARDS SUMMARY TABLES

(a) RESIDENTIAL DISTRICTS

(i) GENERAL STANDARDS

Dimensional standards for residential zoning districts are shown in Table 375-4-1 below.

Table 375-4-1: Residential District Dimensional Standards

Zone District	R-1L	R-1M	R-2	R-T	R-M	R-V
Development Type	**Detached**	**Detached**	**Single- or Two-Family**	**Townhouse**	**Multi-Family**	**Multi-Family**
Lot Standards						
Min. lot area	6,500 sq. ft.	3,500 sq. ft.	2,250 sq. ft.	1,150 sq. ft.	N/A	N/A
Min. lot depth	110 ft.	100 ft.	90 ft.	55 ft.	N/A	N/A
Min. lot width						
Infill on lots platted before [Effective Date of USDO]	55 ft.	30 ft.	25 ft.	18 ft.	20 ft.	100 ft.
Infill on lots platted on or after [Effective Date of USDO]	Contextual: See Section 375-4(A)(3)(a)(ii) (Contextual Lot Widths)					
General	70 ft.	40 ft.	25 ft.	18 ft.	22 ft.	100 ft.
Max. impervious lot coverage	30%	40%	70%	80%	80%	50%
Setbacks						
Min. front						
Infill	Contextual: See Section 375-4(A)(3)(a)(iii) (Contextual Front Yards)					
General	25 ft.	15 ft.	10 ft.	0 ft.	0 ft.	20 ft.
Min. and Max. side						
Min. 1 side	5 ft.	3 ft. from principal building on abutting lot	3 ft. from principal building on abutting lot	0 ft.	General: 0 ft.; Infill: Contextual – See Section 375-4(A)(3)(a)(iv) (Contextual Side	15 ft.
Min. 2 sides	20 ft.	10 ft.	10% of lot width	0 ft.		40 ft.

Table 375-4-1: Residential District Dimensional Standards

Zone District	R-1L	R-1M	R-2	R-T	R-M	R-V
Development Type	**Detached**	**Detached**	**Single- or Two-Family**	**Townhouse**	**Multi-Family**	**Multi-Family**
					Setback in R-M District)	
Max. each side	N/A	N/A	N/A	3 ft. 6 in.	N/A	N/A
Min. rear	40 ft.	25 ft.	20% of lot depth	10% of lot depth	15 ft.	20 ft.
Building Standards						
Max. height, principal building	2 ½ stories	2 ½ stories	2 ½ stories	3 ½ stories	4 stories [1]	5 stories [2]
Max. height, accessory buildings	1 ½ stories	1 ½ stories	1 ½ stories.	1 ½ stories	1 ½ stories	1 ½ stories
Max. No. of Dwelling Units						
< 3 stories	1	1	2	1 per non-commercial floor, up to 2	1 per 750 sq. ft. of gross floor area	Per building code
≥ 3 stories	N/A	N/A	2	1 per non-commercial floor up to 3		

Notes:
[1] Where a building abuts the R-1L or R-1M districts on a side or rear lot line, maximum height is 3 stories within 50 feet of those lot lines.
[2] Where a building abuts the R-1L or R-1M districts on a side or rear lot line, maximum height is 3 stories within 500 feet of those lot lines.

(ii) CONTEXTUAL LOT WIDTHS

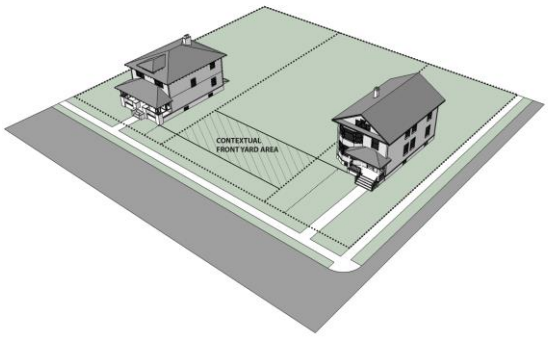
A. Where lots are platted or re-platted on or after June 1, 2017, and more than 50 percent of the lots on the same block are occupied by primary structures, each new lot shall have a minimum width equal to no less than 75 percent and no more than 125 percent of the average lot widths of platted lots on the block.

B. Where the conditions in subsection A do not apply, the minimum General lot widths in Table 375-4-1 shall apply.

(iii) CONTEXTUAL FRONT YARDS

Minimum front yard setbacks for infill development in all Residential districts shall be calculated as follows:

A. When the subject lot is located between two lots facing the same street with primary buildings located within 25 feet of the side lot line of the subject lot, the required front setback shall be no closer to the street nor further back from the street than either of the structures on adjacent lots.



B. Where the subject lot has only one adjacent lot facing the same street that has a primary building located within 25 feet of the side lot line with a primary structure, the required front setback shall match that of the

adjacent structure.

C. Where the subject lot has no adjacent lots facing the same street and improved with a primary building, the required front setback shall match that of the adjacent structure.

(iv) **CONTEXTUAL SIDE SETBACK IN R-M DISTRICT**

Where the subject lot is located in an R-M district and has one or more adjacent lots facing the same street with a primary building between one and five feet from the side lot line, the required side setback on the subject lot shall not be closer than the side setback on the adjacent improved lot.

(v) **RESIDENTIAL CLUSTER SUBDIVISIONS**

As an alternative to complying with the standards contained in Table 375-4-1 and subsection (ii) above, a residential subdivision containing only single-family detached, two-family detached, or townhouse dwellings may be designed as a residential cluster subdivision with lots and parcels that comply with the standards in Section 375-4(D)(7) (Residential Cluster Subdivision).

(b) MIXED-USE DISTRICTS

(i) **GENERAL STANDARDS**

The dimensional standards for the Mixed-Use districts other than the MU-FW, MU-FC, MU-FS, and MU-FM districts are shown in Table 375-4-2. The dimensional standards for the MU-FW, MU-FC, MU-FS, and MU-FM districts are shown in Section 375-4(B) (Form-Based Zoning Standards).

Table 375-4-2: Mixed-Use Dimensional Standards

Zone District	MU-NE	MU-NC	MU-CU	MU-CH	MU-DT	MU-CI
Lot Standards						
Min. lot width	22 ft.	20 ft.	20 ft.	50 ft.	20 ft.	80 ft.
Max. impervious lot coverage	70%	90%	90%	80%	100%	60%
Setbacks						
Min. front	General: 0 ft. Infill: Contextual See Section 375-4(A)(3)(b)(ii)	N/A	N/A	N/A	N/A	N/A
Max. front	General: 10 ft. Infill: Contextual See Section 375-4(A)(3)(b)(ii)	10 ft.	10 ft.	100 ft.	10 ft.	20 ft.
Min. side	General: 3 ft. for 1 side; 8 ft. for 2 sides; Infill: Contextual (See Section 375-4(A)(3)(b)(ii)	0 ft.	0 ft.	10 ft.	0 ft.	0 ft.
Min. rear	Min 0 ft.; Adjacent to R District Min. 15 ft.	Min 0 ft.; Adjacent to R District Min. 10 ft.	Min 0 ft.; Adjacent to R District Min. 15 ft.	20 ft.	0 ft.	Min 0 ft.; Adjacent to R District Min. 15 ft.
Building Standards						
Max. height, principal building	3 stories	3 ½ stories	5 stories [2]	5 ½ stories	N/A[1]	8 ½ stories [3]
Max. height, accessory buildings	1 ½ stories					

Table 375-4-2: Mixed-Use Dimensional Standards

Zone District	MU-NE	MU-NC	MU-CU	MU-CH	MU-DT	MU-CI
Max. no. of dwelling units	1 per 750 sq. ft. of gross floor area	Per building code				

Notes:
[1] Buildings over 10 stories require design review; See Section 375-5(E)(20).
[2] For lots more than 200 feet deep, any portion of a building located within 100 feet of an abutting R-1L or R-1M district is limited to 3 stores.
[3] Any portion of a building located with 50 feet of any abutting R-1L or R-1M district is limited to 3 stories. Any portion of a building located within 50 feet of an R-2 or R-T district is limited to 5 stories.

(ii) CONTEXTUAL SETBACKS IN MU-NE DISTRICT

Development in the MU-NE district shall comply with the provisions of Sections Section 375-4(A)(3)(a)(ii) and Section 375-4(A)(3)(a)(iii) where the conditions of those two sections regarding adjacent lots are applicable to the subject lot in the MU-NE district.

(iii) CONTEXTUAL LOT WIDTHS

A. Where lots are platted or replatted on or after June 1, 2017, and more than 50 percent of the lots on the same block are occupied by primary structures, each new lot shall have a minimum width equal to no less than 75 percent and no more than 125 percent of the existing lot widths of platted lots on the block.

B. Where the conditions in subsection A do not apply, the minimum General lot widths in Table 375-4-1 shall apply.

(c) SPECIAL PURPOSE DISTRICTS

The dimensional standards for Special Purpose districts are shown in Table 375-4-3 below.

Table 375-4-3: Special Purpose Dimensional Standards

New Zone District	I-1	I-2	LC
Current Zone District	**C-M**	**M-1**	**LC**
Lot Standards			
Min. lot width	25 ft.	50 ft.	N/A
Max. impervious lot coverage	N/A	N/A	10%
Setbacks			
Min. front	0 ft.	10 ft.	N/A
Min. side	10 ft.	15 ft.	N/A
Min. rear	General 20 ft.; From Residential district: 100 ft. if not completely enclosed within a building	General: 40 ft.; From Residential district: 200 ft. if not completely enclosed within a building	N/A: From Residential district: 20 ft.
Building Standards			
Max. height, principal building	2 stories	6 stories	2 stories
Max. height, accessory buildings	N/A	N/A	1 ½ stories

(4) INCENTIVES AND AFFORDABLE HOUSING REQUIREMENTS

The following incentives apply to new development and redevelopment in the R-M, Mixed-Use, and Special Purpose zone districts.

(a) INCENTIVES

Inclusion of the following types of building or site features will enable the applicant to vary the dimensional standards otherwise applicable to the project as described in this Section 375-4(A)(4). Only one of these incentives may be used on a single lot or parcel.

(i) ENERGY EFFICIENT DEVELOPMENT

New development or redevelopment of a primary building that is registered, designed, and documented for a LEED Platinum or LEED Gold certification, or equivalent, shall receive the following benefits, regardless of whether the final structure receives a LEED Platinum or LEED Gold certification, or equivalent. The Chief Planning Official shall determine whether a proposed alternative energy efficiency system or facility is equivalent.

A. The project may increase the maximum impervious lot coverage by 20 percent; and

B. The project may increase the maximum height of any primary building (or part of a primary building) located more than 100 feet from a Residential zoning district other than the R-M district by one story.

(ii) LOW IMPACT DEVELOPMENT

New development or redevelopment of a site that incorporates a blue (water retaining) roof, or a green (vegetated) roof, or other building or site features that are designed so that off-site flow of the first one inch of rainfall during the first 24 hours after rainfall ends is reduced by at least 50 percent shall receive the following benefits:

A. The project may reduce any required building setback from any zoning district other than a Residential zoning district by 20 percent (provided the required reduction in off-site water flow is still achieved); and

B. The project may increase the maximum height of any primary building (or part of a primary building) located more than 100 feet from a Residential zoning district other than the R-M districts by one story.

(iii) AFFORDABLE HOUSING

New residential or mixed-use development or redevelopment of a site in which at least 20 percent of all new dwelling units are rent or deed restricted so that they are affordable to households earning no more than 80 percent of the area median household income for the City of Albany shall receive the following benefits:

A. The minimum number of off-street parking required by Section 375-4(E) shall be reduced by 20 percent.

B. The project may increase the maximum height of any primary building (or part of a primary building) located more than 100 feet from a Residential zoning district other than the R-M district, by one story.

(b) AFFORDABLE HOUSING REQUIREMENTS

After December 1, 2017, each new residential or mixed-use development or redevelopment containing 50 or more new dwelling units shall sell or rent at least five percent of its new dwelling units at sales or prices affordable to persons earning no more than 100 percent of the area median household income for the City of Albany, as

determined by affordability methods used by the U.S. Department of Housing and Urban Development.

(5) ENCROACHMENTS AND EXCEPTIONS

The encroachments into required setbacks and exceptions to height limits shown in Table 375-4-4 are permitted.

Table 375-4-4: Exceptions and Encroachments

Structure or Feature	Conditions or Limits
Encroachments into Required Setbacks – unless prohibited by Section 323 (Street and Sidewalks)	
Accessory clotheslines, play equipment, and rainwater harvesting barrels	May encroach into the side or rear setback.
Accessory rain garden or rain barrel	May encroach into front, side and rear setbacks.
Architectural features (sills, belt courses, eaves, cornices, chimneys, bay windows)	May project up to 3 ft. into setbacks
Alternative Energy Equipment or Facility, Geothermal	May encroach into front, side, or rear setbacks
Alternative Energy Equipment or Facility, Solar	May encroach into side and rear setbacks but no closer than 2 ft. from side lot line and no closer than 5 ft. from rear lot line
Alternative Energy Equipment or Facility, Wind	May encroach into required rear yards but no closer than 2 ft. from side lot line and not closer than 5 feet from rear lot line
Awnings and canopies	May project up to 4 feet into setbacks
Composting bin	May encroach into side and rear setback to within 2 ft. of lot line.
Little Library or Little Pantry	If no more than 4 cubic feet in enclosed area, may encroach into front setback but not closer than 1 ft. from front lot line
Minor Residential Structure that is less than 18 in. above grade	Except as listed for specific accessory structures, Minor Residential Structure may be located in any of the following areas that are not within an easement: (a) not more than 6 ft. into front yard from the façade, or (b) no closer than 5 ft. to any rear lot line, or (c) no closer than 2 ft. to any side lot line
Minor Residential Structure, Temporary placement less than 10 consecutive workdays	Except as listed for specific accessory structures, may be located in any front, side, or rear setback
Porch, unenclosed	May project up to 10 ft. into a required front or rear setback or 50% of the required front setback distance, whichever is less, May project up to 6 ft. into a street side or interior side setback on a corner lot, or 50% of the side yard setback distance, whichever is less, When a porch encroaches into any required setback, no side of the porch that is not adjacent to the primary structure may be more than 50% enclosed by opaque walls, windows, or screens. Porch railings up to 36 inches in height are permitted on all sides.
Satellite Dish Antenna	May encroach into side or rear setbacks but no closer than 2 ft. of side lot line and not closer than 5 feet of rear lot line unless necessary for compliance with federal Telecommunications Act, as amended
Secondary means of escape, unenclosed or lattice-enclosed stairs, fire escapes	May encroach no more than 5 ft. into any side or rear yard setback, except as required to comply with fire code or Americans with Disabilities Act, as amended
Walls and fences meeting the standards of section 374-4(f)(8)	May project into front, side, and rear setbacks
Exceptions to Building Height Limits	

Table 375-4-4: Exceptions and Encroachments

Structure or Feature	Conditions or Limits
Chimneys, flagpoles; ornamental towers; religious institution spires; towers; belfries; monuments; television and radio antennas;	May not extend more than 25 feet above the roof plane of a flat roof or the highest point on a pitched roof; If freestanding may not extend more than 25 feet above the maximum height for primary buildings
Unoccupied roof structures for the housing of elevators, stairways, air conditioning apparatus, cooling towers, ventilating fans, skylights, or similar equipment to operate and maintain the structure;	May not extend more than 10 feet above the roof plane of a flat roof or the highest point on a pitched roof;
Alternative Energy Equipment or Facility, Solar	May not extend more than 18 inches above the maximum building height
Alternative Energy Equipment or Facility, Wind	In Residential districts, may not exceed maximum height for primary buildings in the district; In Mixed-Use and Special Purpose districts, may not extend more than 30 feet above the maximum height for primary buildings
Parapets	May not extend more than 4 feet above the maximum height for primary buildings

(B) FORM-BASED ZONING STANDARDS

(1) GENERAL STANDARDS

(a) PURPOSE & INTENT

This Section 375-4(B) contains standards that apply to the MU-FW, MU-FC, MU-FS, and MU-FM districts, specifying standards for buildings that impact walkability and the quality of the public realm as well as parking requirements and the design of signage, lighting, and public open space.

(b) APPLICABILITY

The provisions of this Section 375-4(B) apply to all development and redevelopment in the MU-FW, MU-FC, MU-FS, and MU-FM districts that involves the construction of a new principal structure on the site, except:

(i) Where Section 375-5(F) (Pre-existing Development and Nonconformities) permits the continued use and/or expansion of a structure without compliance with some or all of the standards of this USDO; and

(ii) Where the structure is a landmark designated by the City, in which case the standards of Section 375-2(F)(1) (HR-O Historic Resources Overlay) and procedures related to historic landmarks in Section 375-5 (Administration and Enforcement) shall apply.

(c) NEW BUILDINGS

(i) PRIMARY ENTRANCES

A. The primary entrance of every principal building giving access to a principal use of the property must directly face a street or a public space. Public space may include a central garden or courtyard when that public space opens directly onto the primary street.

B. Buildings shall be designed and oriented with an emphasis on the primary street on which they front.

C. Buildings located on corner lots shall use design elements that emphasize the importance of both streets.

D. The primary public entrance shall be prominently located, easily identifiable, relate to the human scale, and contribute to the overall design intent.

E. The primary public entrance shall be at grade or seamlessly integrate required handicap accessibility into the design of the building.

(ii) **BUILDING MATERIALS**

A. Masonry walls, whether load-bearing or veneer, should be of brick, natural stone, manufactured or cultured stone, cast stone, decorative CMU, or products of similar quality of manufacture. Brick masonry should generally be comprised of a standard unit size and height. Oversized or utility dimensions are prohibited. Brick masonry may be painted.

B. Permitted siding types include horizontal lap siding of wood or composition board (such as Hardiplank), Vertical board and batten of wood or composition board (such as Hardiplank), or Shingles of wood or composition board (such as Hardiplank). Vinyl siding is not permitted. All siding types must incorporate vertical corner boards on outside building corners. Corner boards should be a minimum of three inches in width.

C. Surfaces finished in stucco should be smooth in texture and painted. Sprayed-on stucco finishes and stucco panels (pre-fabricated stucco board) are prohibited.

D. When materials are combined on a building façade horizontally, heavier materials must naturally occur below lighter materials.

E. E.I.F.S., Fiberglass (as cornice material), and composite materials must be located out of reach of pedestrians and must visually appear to have a hand troweled finish.

F. Cornices shall be required on all buildings to delineate the tops of the façades. Cornices shall include roof overhangs or eaves where a sloped roof meets the top of a wall and shall either extend a minimum of twelve inches beyond the wall plane, or include jogs in the surface plane of the building wall greater than twelve inches.

(iii) **BRICK AND MASONRY DETAILING**

A. **HEADERS**

1. All openings in masonry construction shall be spanned by a header.
2. Permitted header forms shall be the lintel, arch, and jack arch. The header shall visually appear able to carry the wall load above.
3. Headers may be comprised of a variety of materials. Permitted materials include: brick, stone, cast stone, reinforced cast concrete, wood, and metal.
4. All headers on a building shall be of a matching style and material.
5. Headers shall be a minimum of four inches in height and shall be slightly wider than the opening they span.

B. **SILLS**

1. All window and door openings in masonry construction shall have a sill at their base.
2. Sills shall be generally rectangular in form, and slope slightly away from the opening to shed water.
3. Sills may be comprised of a variety of materials. Permitted materials include: brick, stone, cast stone, and concrete. All sills on a building shall be of a matching style and material.
4. Sills shall be a minimum of two inches in height and should project from the wall surface a minimum of one half inch beyond the vertical casing. Sills shall be slightly wider than the opening, the same as the header.

C. **CAPS**

1. A cap shall protect the tops of all masonry structures exposed to the weather including: garden walls, stair treads, planter edges, parapets, and freestanding piers.
2. Caps shall be comprised of stone, cast stone, brick, concrete, or slate.
3. The edges of caps may be rectangular, or may be more ornate.
4. Caps shall project past the edge of the masonry structure below by a minimum of one half inch.

(iv) **WIDE BUILDINGS**

A. The Primary Façade of buildings wider than 150 feet shall be varied with a change of architectural expression.

B. These changes in expression may be a vertical element running from the ground plane to the roof, a change in fenestration, color, or texture, or a break in building façade plane or roof line.

C. These changes may be subtle or significant, but should soften the visual effect of very wide buildings directly across the street from narrower buildings and in general, continue the rhythm of the existing buildings.

(v) **FAÇADE TRANSPARENCY**

All building façades that face onto a street (including secondary or side streets) or public space shall meet the minimum transparency requirements outlined below. The percentage of transparency per Story shall be calculated within the area between finished floor and finished ceiling and shall be a total percentage of doors and windows along that portion of the façade. An example of appropriate façade transparency is shown in Figure 375-4-1.

A. Minimum building façade transparency for ground Story (retail) = 60 percent

B. Minimum building façade transparency for ground Story (uses other than retail) = 30 percent

C. Minimum building façade transparency for upper Stories = 30 percent

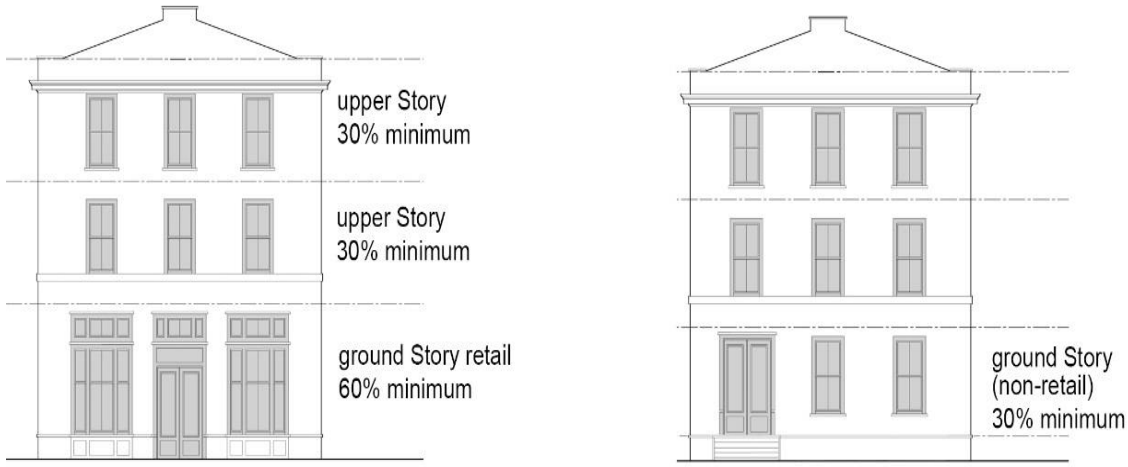


Figure 375-4-1: Minimum Façade Transparency Requirements

(vi) ROOF FORMS

A. Roof types shall be typical to the chosen style of building. These permitted roof types may include gable, Dutch gable, hipped, shed, barrel vaulted, domed, and mansard. Shed roofs shall be concealed with parapets along the street frontage. Applied mansard roofs are not permitted.

B. Ensure that visible roofs are designed to complement the composition and form of the building.

C. Rooftop mechanical or other equipment that does not contribute to the overall design intent must be screened from public view utilizing screening techniques that either blend with the building or complement its design.

(vii) FRONTAGE ELEMENTS

Frontage Elements are semi-private elements of the building typically located in the area between the primary façade and the lot line. Frontage elements may occur forward of the build-to zone or setback. In some instances, such as galleries and arcades, they may encroach into the right-of-way with City approval. Frontage Elements create the transition between the public building and the private or commercial buildings. Frontage Elements establish the physical and functional relationship between the street and the private lot. The following are common Frontage Elements and the basic standards for those elements:

A. ARCADE

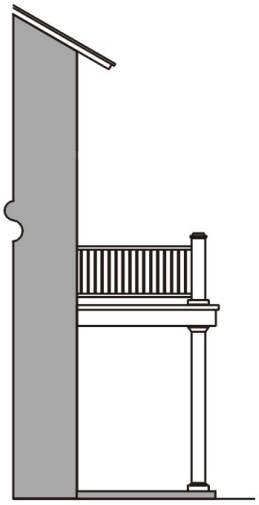
A frontage element with a colonnade supporting habitable space that overlaps the sidewalk, while the building façade at sidewalk level remains at or behind the build-to zone or setback. This frontage element type is conventional for retail uses.

1. Minimum Arcade Depth = ten feet (measured from face of building to inside column face)
2. Minimum Underside Clearance = ten feet
3. Length = 75 to 100 percent of building frontage

4. Arcades shall be supported by columns, piers or arches. Support columns can be spaced no farther apart than they are tall.
5. Arcades shall occur forward of the build-to zone or setback and may encroach within the right-of-way with the approval of the City. When an arcade extends over a public sidewalk, the property owner may be required to enter into a right-of-way agreement, in a form acceptable to the City, establishing the property owner's sole responsibility for repairing any damage that may result from public maintenance or improvements.
6. Arcades shall not extend closer than two feet from the curb line, nor farther than five feet from the curb line.
7. Enclosed usable space shall be permitted above the arcade, and within the right-of-way with the approval of the City.
8. On corner lots, arcades may wrap around the side of the building facing the secondary street.

B. **GALLERY**

A frontage element in which the building façade is aligned close to the lot line with an attached cantilevered shed or a lightweight colonnade overlapping the sidewalk. This frontage element type is conventional for retail use.



1. Minimum Gallery Depth = eight feet (measured from face of building to inside column face)
2. Minimum Underside Clearance = nine feet
3. Length = 75 to 100 percent of building frontage
4. Support columns can be spaced no farther apart than they are tall.
5. Galleries shall occur forward of the build-to zone or setback and may encroach within the right-of-way with approval of the City. When a gallery extends over a public sidewalk, the property owner may be required to enter into a right-of-way agreement, in a form acceptable to the City, establishing the property owner's sole responsibility for repairing any damage that may result from public maintenance or improvements.
6. Galleries shall not extend closer than two feet from the curb line, nor farther than five feet from the curb line.
7. Galleries shall be only one story in height and may have flat or pitched roofs, up to an 8:12 slope.
8. On corners lots, galleries may wrap around the side of the building facing the secondary street.
9. Open balconies are permitted on galleries above the sidewalk level.

C. SHOPFRONT

A frontage element in which the building façade is aligned close to the lot line with the building entrance at sidewalk grade. This frontage element type is conventional for retail use.

1. A habitable space at least 15 feet in depth shall be provided behind each shopfront on the Primary Façade.
2. Shopfronts shall have an expression line between the first and second story (see diagram below). Expression lines shall either be moldings extending a minimum of two inches outward from the Primary Façade, or jogs in the surface plane of the building wall greater than two inches.
3. The entrances to all shopfronts shall be covered, either by an awning, canopy, second floor balcony, arcade/colonnade, gallery, or by being inset into the main body of the building.
4. Entrances for public access shall be provided at intervals no greater than 50 feet, unless otherwise approved by the Chief Planning Official.
5. Shopfront doors shall contain at least 50 percent transparent glass. Solid doors are prohibited.
6. The top of all shopfront window sills shall be between one and three feet above the adjacent sidewalk.
7. Shopfront windows shall extend up from the sill at least eight feet above the adjacent sidewalk.
8. The ground floor of a shopfront shall have untinted transparent storefront windows and/or doors covering no less than 50 percent of the wall area. See Façade Transparency for additional requirements.
9. Shopfront windows may not be made opaque by window treatments (excepting operable sunscreen devices within the conditioned space). Reflective and frosted glass is prohibited on shopfronts. Low emissivity glass with high visual light transmittance may be permitted.
10. Storefronts must remain unshuttered at night to provide views of display spaces and are encouraged to remain lit from within from dusk to dawn at minimum light levels to provide additional security to pedestrians.

Figure 375-4-2: Storefront Transparency Requirements

D. **STOOP**

A frontage element wherein the building façade is aligned close to the lot line with the first story elevated from the sidewalk sufficiently to secure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor residential use.

1. Minimum Stoop Depth = four feet
2. Minimum Stoop Length = four feet
3. Minimum Underside Clearance = eight feet
4. Minimum Finished Stoop Floor Height = At or up to eight inches below the first interior finished floor level, but not to exceed 42 inches above the finished grade of the sidewalk.
5. Stoops may extend into the right-of-way with the approval of the City, but the location of the stoop must leave at least five horizontal feet of the sidewalk unobstructed for pedestrian travel.
6. Stoop stairs may run to the front or to the side.
7. Stoops shall be covered, either with a roof, or area inset into the main body of the building.
8. Partial walls and railings on stoops may be no higher than 42 inches.

E. **FORECOURT**

A frontage element in which a portion of the building façade is close to the lot line and the central portion is set back. The forecourt created is suitable for vehicular drop-offs. This type shall be allocated in conjunction with other frontage element types.

F. TERRACE OR LIGHTWELL

A frontage element in which the building façade is set back from the lot line by an elevated terrace or a sunken lightwell. This frontage element type tends to buffer residential uses from urban sidewalks and removes the private yard from public encroachment. Terraces are suitable for use or conversion to outdoor cafes.

G. PORCH

A frontage element type typically with a planted frontage along the applicant's side of the lot line in which the building façade may be set back from the lot line with an attached porch permitted to encroach forward of the build-to zone or setback. A fence or low knee wall may be located at the lot line to maintain street spatial definition.

1. Minimum Porch Depth = eight feet (measured from face of building to inside column face)
2. Minimum Underside Clearance = eight feet
3. Minimum Finished Porch Floor Height = At or up to eight inches below the first interior finished floor level not to exceed 42 inches above the finished grade of the sidewalk.
4. Front porches may occur forward of the build-to zone or setback, but shall not extend into the right-of-way or any easement.
5. Side porches may extend past the side setback requirements, but not into any easement or public right-of-way.
6. Porches that encroach into applicable setback requirements, as described in Subsections 4 and 5 above, must comply with the conditions applicable to unenclosed porches in Section 375-4(A)(5) (Encroachments and Exceptions).
7. Front and side porches may be screened; however, if screened, all architectural expression (columns, railings, etc.) must occur on the outside of the screen (facing a street or public space).

H. ADDITIONAL SHADING OF SIDEWALKS

1. Each building with a shopfront on the ground story is required to have awnings, balconies, colonnades, or arcades facing the primary streets. When providing a required awning or balcony, or one that extends into a street right-of-way, the following design requirements apply:

   a. Awnings

      i. Awnings over ground-story doors or windows minimum depth = five feet

      ii. Minimum Underside Clearance = eight feet

iii. Awnings must extend over at least 25 percent of the width of the Primary Façade or over the full width of all windows and transparent portions of the Primary Façade.

iv. Back-lit, high-gloss, or plasticized fabrics are prohibited.

b. Second-story Balconies

i. Minimum depth = six feet

ii. Minimum Underside Clearance = ten feet

iii. Balconies must extend over at least 25 percent of the width of the Primary Façade.

iv. Balconies may have roofs but must be open toward the primary and side street.

c. A colonnade or arcade may extend forward of the build-to zone and over public sidewalks provided it maintains two feet of horizontal clearance from the curb.

d. When an awning, balcony, colonnade, or arcade extends over a public sidewalk, the property owner may be required to enter into an agreement in a form acceptable to the City, establishing the property owner's sole responsibility for repairing any damage that may result from public maintenance or improvements.

(d) SPECIALTY BUILDINGS

Within the MU-FW, MU-FC, MU-FS, and MU-FM districts, the following criteria shall be applied to ensure that any auto-oriented uses permitted in the district do not detract from the overall walkability of the district.

(i) PARKING STRUCTURES

Parking structures shall be built within the parking location footprint permitted by the frontage standards. A liner building should be used to mask the parking from primary and side streets.

(ii) LINER BUILDINGS

The character and intended use of some buildings, such as warehouses and parking structures, may prevent them from complying with the Façade Transparency requirements. Such buildings may be constructed so that they are separated from adjacent streets (but not

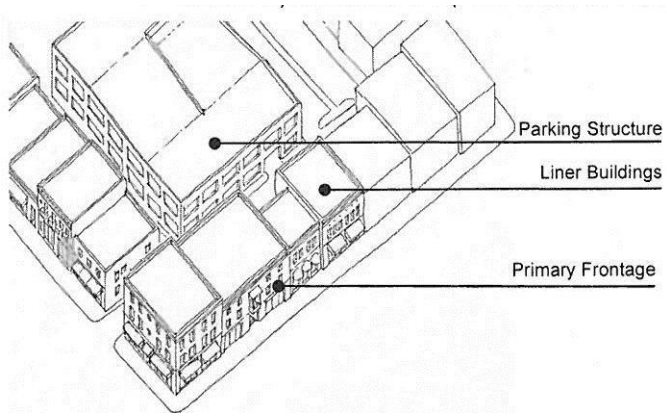


Figure 375-4-3: Liner Building Configuration

alleys) by liner buildings :

A. Liner buildings must be at least 2 stories in height with no less than 15 feet in depth;

B. Liner buildings may be detached from or attached to the primary building;

C. Liner buildings may be used for any purpose allowed in that zone district by Table 375-3-1: Permitted Use Table) except for parking; and

D. Liner buildings must meet the Primary Façade transparency requirements in Section 375-4(B)(1)(c)(v).

(iii) **GAS STATIONS**

A. A ground-floor shopfront shall face the Primary Street and define the corner of the lot.

B. All pumps, parking, and drive-through areas must be located behind the building.

C. An example of an appropriate gas station configuration is shown in Figure 375-4-4.

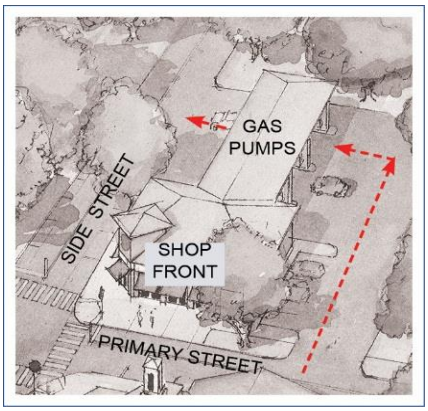


Figure 375-4-4: Gas Station Configuration

(iv) **DRIVE-THROUGHS**

A. A ground-floor shopfront must face the Primary Street. All parking shall be located in the rear of the building and accessed from a rear alley when present. Drive-thru windows shall be located to the side or rear of the building.

B. An example configuration of an appropriate building with a drive-thru is shown in Figure 375-4-5.

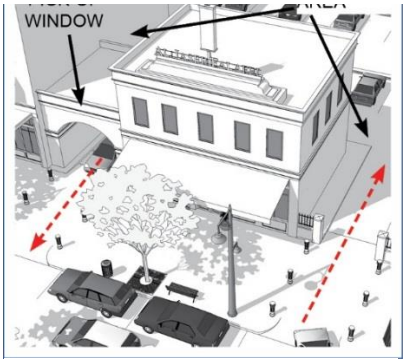


Figure 375-4-5: Drive-thru Building Configuration

(e) ADDITIONAL STANDARDS AND GUIDELINES FOR THE MU-FW ZONE DISTRICT

The MU-FW district is an area that is comprised of existing warehouse and manufacturing type buildings and uses. New construction should be sympathetic to the existing architecture and materials and be done in a way that celebrates manufacturing, industrial design, and technology. This industrial look or aesthetic should emphasize the engineering, structure and design elements such as stair towers, bays, entrances, rooflines, and corners utilizing extended girders, prominent corner posts, or exposed structural framing, and be rendered using industrial materials such as metal glass, stainless steel, and other high quality materials and finishes associated with contemporary industrial buildings.

(i) **MATERIALS**

For new construction in the MU-FW district, consider machined materials and finishes such as stainless steel, painted steel, anodized aluminum and other alloys, and glass that project an image related to manufacturing, technology, or industry.

(ii) **TYPICAL DESIGN CHARACTERISTICS**

A. Exposed, extended, or exaggerated structural elements.

B. Geometric patterns, often in a grid with horizontal or vertical emphasis.

C. Clearly identifiable and integrated main entrances.

D. Integrated shading devices for windows—adding interest, texture, and variety both day and night.

E. A harmonious mix of materials and colors, with strong colors used sparingly, often just for major structural elements.

F. Horizontal or vertical banding through the use of material articulation, structural elements, or window grouping.

G. Emphasized structural bays, often protruding or recessed.

H. Use of suspended or cantilevered elements.

I. Well-integrated lighting, emphasizing structure.

(2) FRONTAGE STANDARDS

(a) PURPOSE

The Frontage Standards establish the physical and functional relationships between buildings and the street. The standards set forth rules related to building placement (build-to-zones, setbacks, location of parking, etc.) and building heights. All new buildings in Form-Based Districts must comply with the Frontage Standards in this section based on the Frontage designation shown on the regulating plan.

(b) APPLICABILITY

The MU-FW, MU-FC, MU-FS, and MU-FM district Regulating Plans are shown in Sections 375-2(D)(7) through (10). Each street frontage within each regulating plan is color coded to a Frontage Type. All new buildings constructed in the MU-FW, MU-FC, MU-FS, or MU-FM districts must comply with the standards for that Frontage Type in this Section 375-4(B). The basic standards applicable to each Frontage Type are shown in the Frontage Standards Summary Chart in Section 375-4(B)(2)(c) below, which uses the same color-coding used on the Regulating Plans. More detailed standards for each frontage type are shown in Sections 375-4(B)(2)(d) through (i) below.

(c) FRONTAGE STANDARDS SUMMARY CHART

Table 375-4-5: Frontage Standards Summary Chart

	Mixed-use Core	Walkable Center	Neighborhood General	Connected Edge	Waterfront Edge	Industrial Warehouse
Heights						
Building Height	1 Story min 5 Stories max	1 Story min 4 Stories max	1 Story min 3.5 Stories max	1 Story min 2.5 Stories max	2 Story min 10 Stories max	1 Story min 3 Stories max
First Floor Height (Floor to Floor)	13' min	13' min	10' min	10' min	13' min	no min
Ground Finished Floor above sidewalk or finished grade	0' min(Commercial) 24" min (residential)	0' min(Commercial) 24" min (residential)	0' min(Commercial) 24" min (residential)	24" min (residential)	0' min(Commercial) 24" min (residential)	0' min
Building Placement						
Front Build-to Zone	0' min to 6' max	0' min to 10' max	See Section 375-4(A)(3)(a)(iii)	See Section 375-4(A)(3)(a)(iii)	0' min to 6' max	8' min (setback)
Frontage Build-out	80% min	60% min	60% min	40% min	80% min	n/a
Side Setback (mid-block)	0' min	0' min	0' min	5' min	0' min	8' min
Side Build-to Zone (corner)	0' min to 10' max	0' min to 10' max	0' min to 10' max	10' min	0' min to 10' max	8' max
Rear Setback (lot or alley)	5' min	5' min	5' min	5' min	5' min	24' min
Rear Build-to Zone (street)	0' min to 10' max	6' min to 18' max	6' min to 18' max	12' min (setback)	0' min to 10' max	8' min (setback)
Rear Frontage Build-out (street ONLY)	60% min	60% min	40% min	no min	60% min	n/a
Parking Location						
Front Setback	30' min	30' min	20' min	24' min	30' min	20' min
Side Setback (mid-block)	0' min	0' min	0' min	0' min	0' min	0' min
Side Setback (corner)	30' min	30' min	20' min	20' min	30' min	20' min
Rear Setback (lot)	5' min	5' min	5' min	5' min	5' min	0' min
Rear Setback (alley)	0' min	0' min	3' min	3' min	0' min	0' min
Rear Setback (street)	30' min	20' min	20' min	20' min	20' min	0' min
Frontage Elements						
Allowed Frontage Elements	Forecourt, Stoop, Shopfront, Gallery, Arcade	Terrace or Light-well, Forecourt, Stoop, Shopfront, Gallery, Arcade	Porch, Terrace or Lightwell, Forecourt, Stoop, Shopfront	Porch, Stoop, Common Yard	Terrace or Light-well, Forecourt, Stoop, Shopfront, Gallery, Arcade	n/a

Notes:

HEIGHTS:
- Towers, cupolas, and other rooftop features with a footprint smaller than 20 feet by 20 feet may extend up to 30 feet above the designated height limit in the Mixed-Use Core, Walkable Center, Waterfront Edge, and Warehouse Districts.
- Towers, cupolas, and other rooftop features with a footprint smaller than 20 feet by 20 feet may extend up to 20 feet above the designated height limit in the Neighborhood General and Connected Edge Districts.

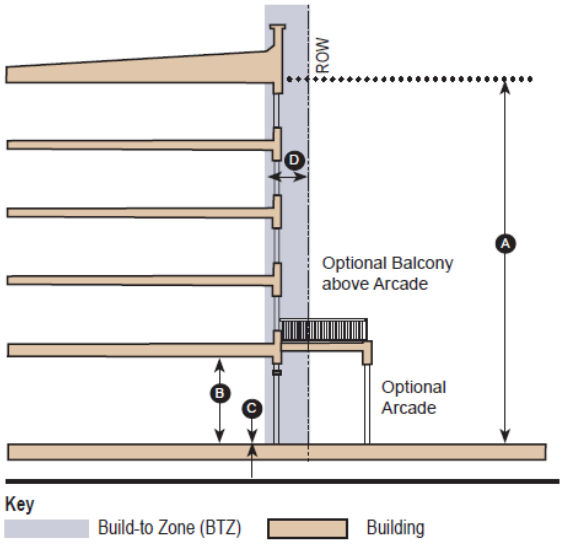
PARKING LOCATION:
- Parking shall be accessed from rear alleys or side streets whenever possible.

FRONTAGE ELEMENTS:
- Frontage Elements may encroach forward of the build-to zone and/or into the right-of-way, barring any additional restrictions by the public entity that has control over the public right-of-way.
- See Section 375-2(B)(1) (General Standards) for requirements of frontage elements.

MISCELLANEOUS:
- All buildings must have a Primary Pedestrian Entrance along the front façade.
- Loading docks and other service entries shall not be located on primary frontages. Where alternatives exist, they should not be located along secondary streets or frontages. All loading docks and service entrances should be integrated into the overall building and site design along the rear of the building.

(d) Mixed-Use Core Frontage Standards

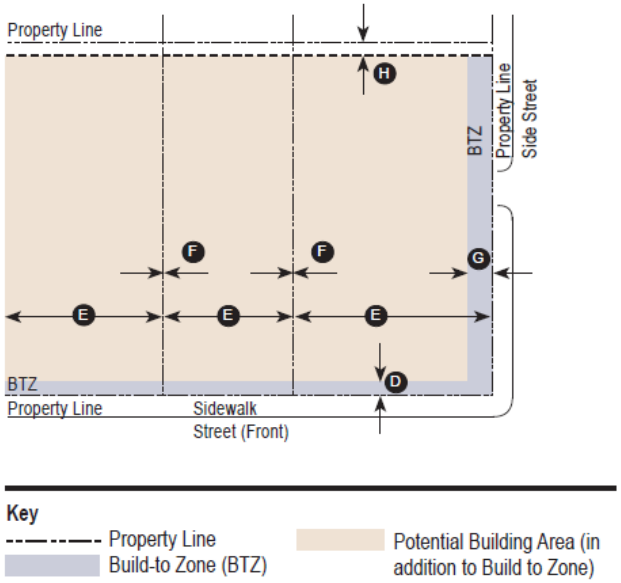
(i) Building Height



Building Heights		
Building Height	1 Story minimum 5 Stories maximum	A
First Floor Height (floor to floor)	13' minimum	B
Ground Finished Floor above sidewalk or finished grade	0' min. (commercial) 24" minimum (residential)	C

NOTES:
- Towers, cupolas, and other rooftop features with a footprint smaller than 20 feet by 20 feet may extend up to 30 feet above the designated height limit.

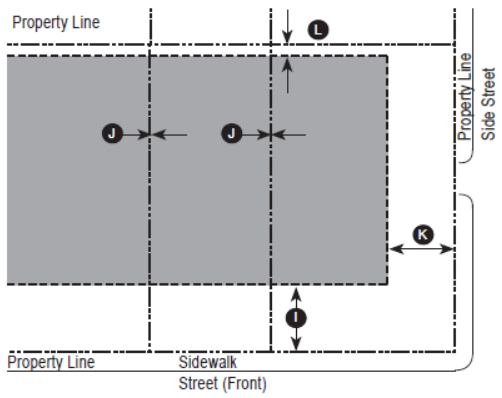
(ii) Building Placement



Building Placement		
Front Build-to Zone	0' minimum to 6' maximum	D
Frontage Build-out	80% minimum	E
Side Setback (mid-block)	0' minimum	F
Side Build-to Zone (corner)	0' minimum to 10' maximum	G
Rear Setback (lot or alley)	5' minimum	H
Rear Build-to Zone (street)	0' minimum to 10' maximum	
Rear Frontage Build-out (street ONLY)	60% minimum	

(d) Mixed-Use Core Frontage Standards

(iii) Parking Location



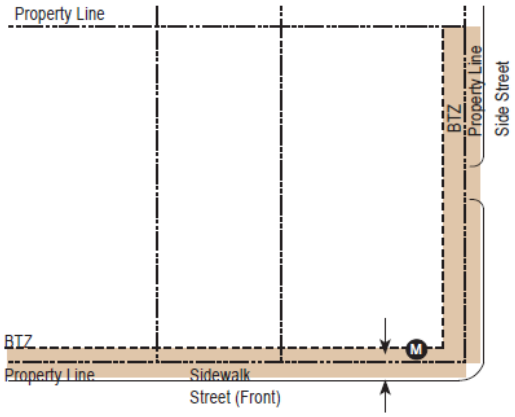
Key
- Property Line
- Parking Area
- Setback Line

Parking Location		
Front Setback	30' minimum	I
Side Setback (mid-block)	0' minimum	J
Side Setback (corner)	30' minimum	K
Rear Setback (lot)	5' minimum	L
Rear Setback (alley)	0' minimum	
Rear Setback (street)	30' minimum	

NOTES:

- Parking shall be accessed from rear alleys or side streets whenever possible.

(iv) Frontage Elements



Key
- Property Line
- Max Build-to Zone (BTZ)
- Encroachment Area

Frontage Elements		
Allowed Frontage Elements	Forecourt, Stoop, Shopfront, Gallery, Arcade	M

NOTES:

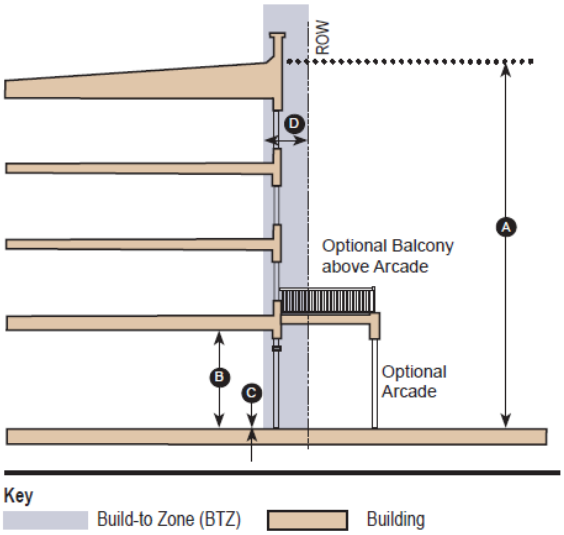
- Frontage Elements may encroach forward of the build-to zone and/or into the right-of-way, barring any additional restrictions by the public entity that has control over the public right-of-way.
- See Section 375-2(B)(1) (General Standards) for requirements of frontage elements

Miscellaneous Notes

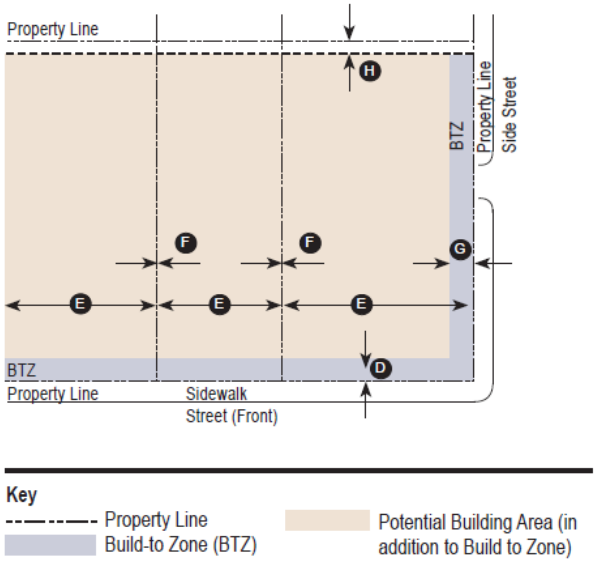
- All buildings must have a Primary Pedestrian Entrance along the front facade.
- Loading docks and other service entries shall not be located on Mixed-use Core Frontages.

(e) WALKABLE CENTER FRONTAGE STANDARDS

(i) BUILDING HEIGHT



(ii) BUILDING PLACEMENT



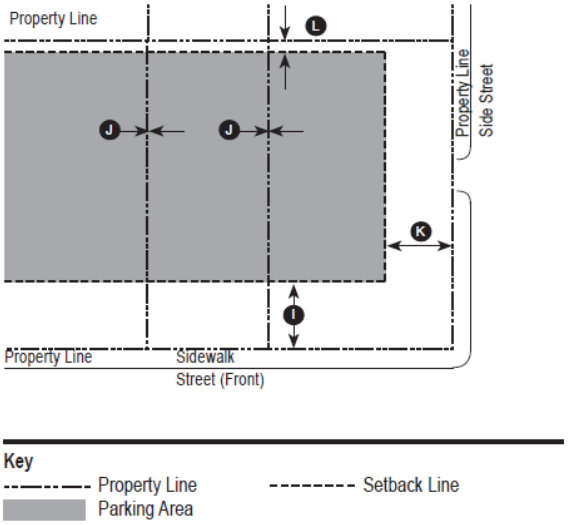
Building Heights		
Building Height	1 Story minimum 4 Stories maximum	A
First Story (floor to floor)	13' minimum	B
Ground Finished Floor above sidewalk or finished grade	0' min. (commercial) 24" min. (residential)	C

NOTES:
- Towers, cupolas, and other rooftop features with a footprint smaller than 20 feet by 20 feet may extend up to 30 feet above the designated height limit.

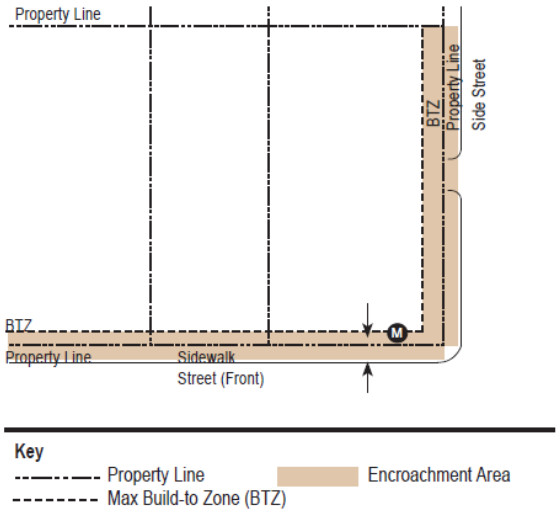
Building Placement		
Front Build-to Zone	0' minimum to 10' maximum	D
Frontage Build-out	60% minimum	E
Side Setback (mid-block)	0' minimum	F
Side Build-to Zone (corner)	0' minimum to 10' maximum	G
Rear Setback (lot or alley)	5' minimum	H
Rear Build-to Zone (street)	6' minimum to 18' maximum	
Rear Frontage Build-out (street ONLY)	60% minimum	

(e) Walkable Center Frontage Standards

(iii) Parking Location



(iv) Frontage Elements



Parking Location		
Front Setback	30' minimum	I
Side Setback (mid-block)	0' minimum	J
Side Setback (corner)	30' minimum	K
Rear Setback (lot)	5' minimum	L
Rear Setback (alley)	0' minimum	
Rear Setback (street)	20' minimum	

NOTES:

- Parking shall be accessed from rear alleys or side streets whenever possible.

Frontage Elements		
Allowed Frontage Elements	Terrace or Lightwell, Forecourt, Stoop, Shopfront, Gallery, Arcade	M

NOTES:

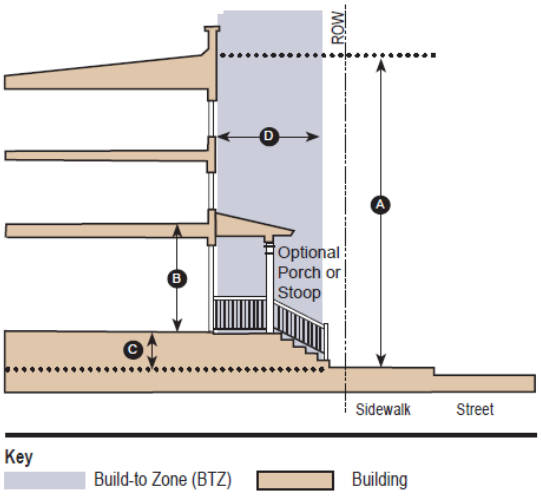
- Frontage Elements may encroach forward of the build-to zone and/or into the right-of-way, barring any additional restrictions by the public entity that has control over the public right-of-way.
- See Section 375-2(B)(1) (General Standards) for requirements of frontage elements.

Miscellaneous Notes

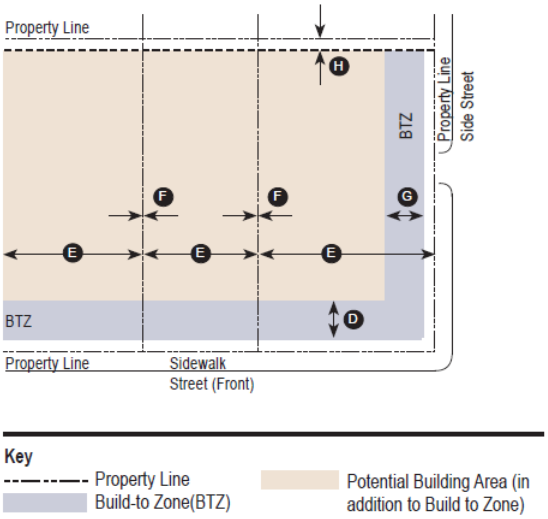
- All buildings must have a Primary Pedestrian Entrance along the front façade.

(f) Neighborhood General Frontage Standards

(i) Building Height



(ii) Building Placement



Building Heights		
Building Height	1 Story minimum 3.5 Stories maximum	A
First Story (floor to floor)	10' minimum	B
Ground Finished Floor above sidewalk or finished grade	0' minimum (commercial) 24" minimum (residential)	C

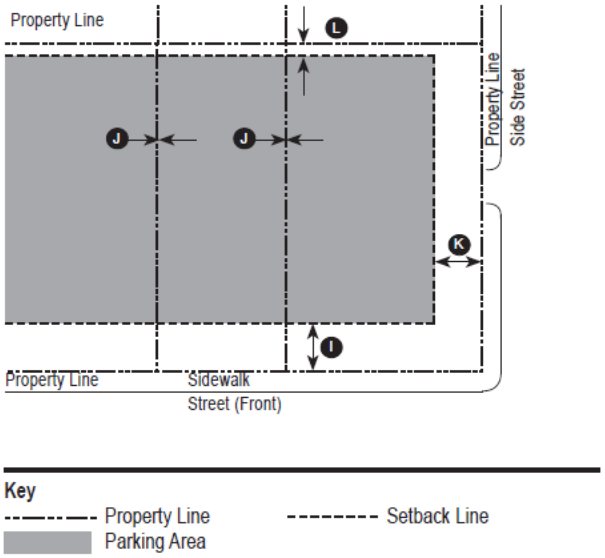
NOTES:

- Towers, cupolas, and other rooftop features with a footprint smaller than 20 feet by 20 feet may extend up to thirty 30 feet above the designated height limit.

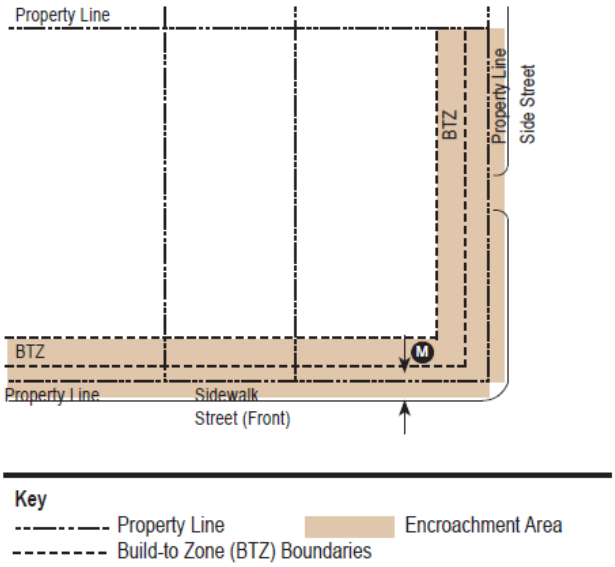
Building Placement		
Front Build-to Zone	See Section 375-4(A)(3)(a)(iii)	D
Frontage Build-out	60% minimum	E
Side Setback (mid-block)	0' minimum	F
Side Build-to Zone (corner)	0' minimum to 10' maximum	G
Rear Setback (lot or alley)	5' minimum	H
Rear Build-to Zone (street)	6' minimum to 18' maximum	
Rear Frontage Build-out (street ONLY)	40% minimum	

(f) Neighborhood General Frontage Standards

(iii) Parking Location



(iv) Frontage Elements



Parking Location		
Front Setback	20' minimum	I
Side Setback (mid-block)	0' minimum	J
Side Setback (corner)	20' minimum	K
Rear Setback (lot)	5' minimum	L
Rear Setback (alley)	3' minimum	
Rear Setback (street)	20' minimum	

NOTES:

- Parking shall be accessed from rear alleys or side streets whenever possible.

Frontage Elements		
Allowed Frontage Elements	Porch, Terrace or Lightwell, Forecourt, Stoop, Shopfront	M

NOTES:

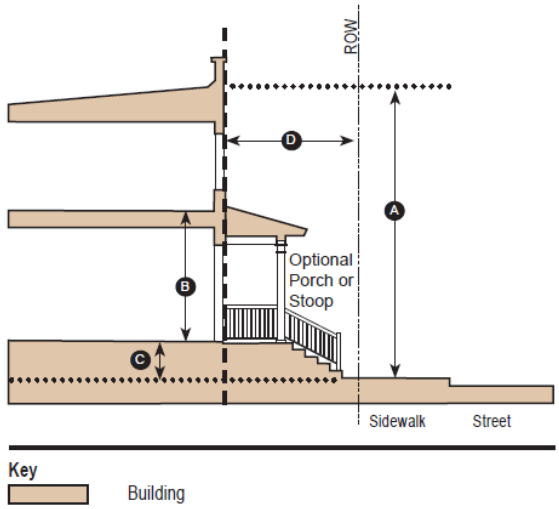
- Frontage Elements may encroach forward of the build-to zone and/or into the right-of-way, barring any additional restrictions by the public entity that has control over the public right-of-way.
- See Section 375-2(B)(1) (General Standards) for requirements of Frontage Elements

Miscellaneous Notes

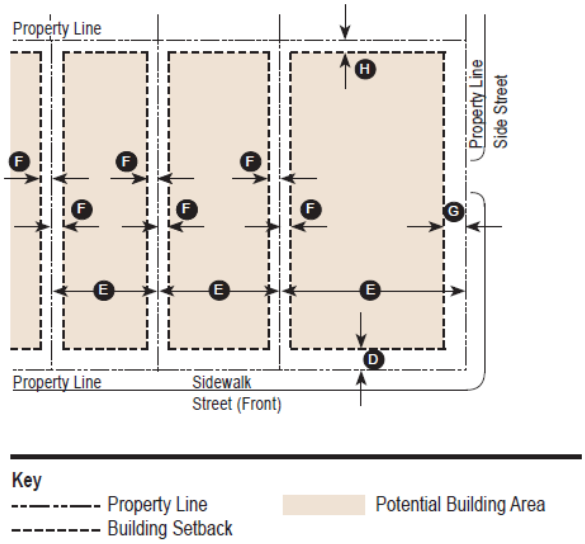
- All buildings must have a Primary Pedestrian Entrance along the front façade.

(g) CONNECTED EDGE FRONTAGE STANDARDS

(i) BUILDING HEIGHT



(ii) BUILDING PLACEMENT



Building Heights		
Building Height	1 Story minimum 2.5 Stories maximum	A
First Story (floor to floor)	10' minimum	B
Ground Finished Floor above sidewalk or finished grade	24" minimum (residential)	C

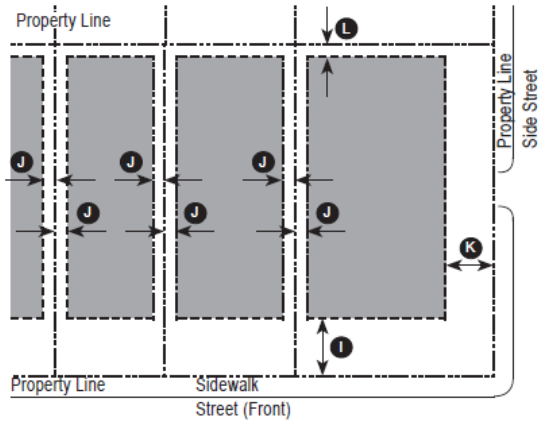
NOTES:

- Towers, cupolas, and other rooftop features with a footprint smaller than 20 feet by 20 feet may extend up to 30 feet above the designated height limit.

Building Placement		
Front Build-to Zone	See Section 375-4(A)(3)(a)(ii)	D
Frontage Build-out	40% minimum	E
Side Setback (mid-block)	5' minimum	F
Side Build-to Zone (corner)	10' minimum	G
Rear Setback (lot or alley)	5' minimum	H
Rear Build-to Zone (street)	12' minimum (Setback)	
Rear Frontage Build-out (street ONLY)	no minimum	

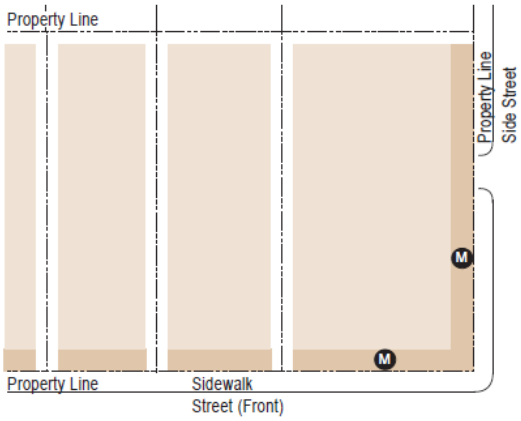
(g) Connected Edge Frontage Standards

(iii) Parking Location



Key
Property Line
Parking Area
Setback Line

(iv) Frontage Elements



Key
Property Line
Potential Building Area
Encroachment Area

Parking Location		
Front Setback	24' minimum	I
Side Setback (mid-block)	0' minimum	J
Side Setback (corner)	20' minimum	K
Rear Setback (lot)	5' minimum	L
Rear Setback (alley)	3' minimum	
Rear Setback (street)	20' minimum	

NOTES:

- Required parking may be located on-street or in a district parking lot or structure within 800 feet of the building's front door.
- Parking shall be accessed from rear alleys or side streets whenever possible.

Frontage Elements		
Allowed Frontage Elements	Porch, Stoop, Common Yard	M

NOTES:

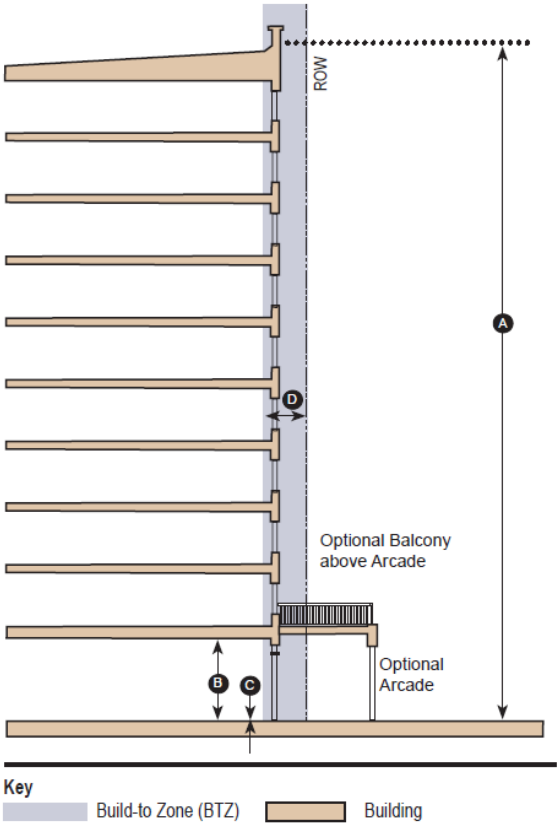
- Frontage Elements may encroach forward of the build-to zone and/or into the right-of-way, barring any additional restrictions by the public entity that has control over the public right-of-way.
- See Section 375-2(B)(1) (General Standards) for requirements of frontage elements.

Miscellaneous Notes

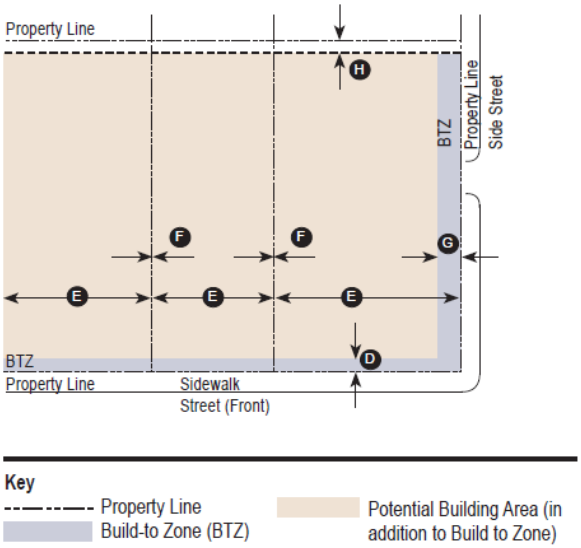
- All buildings must have a Primary Pedestrian Entrance along the front façade.

(h) WATERFRONT EDGE FRONTAGE STANDARDS

(i) BUILDING HEIGHT



(ii) BUILDING PLACEMENT



Building Heights		
Building Height	2 Story minimum 10 Stories maximum	A
First Story (floor to floor)	13' minimum	B
Ground Finished Floor above sidewalk or finished grade	0' min. (commercial) 24" minimum (residential)	C

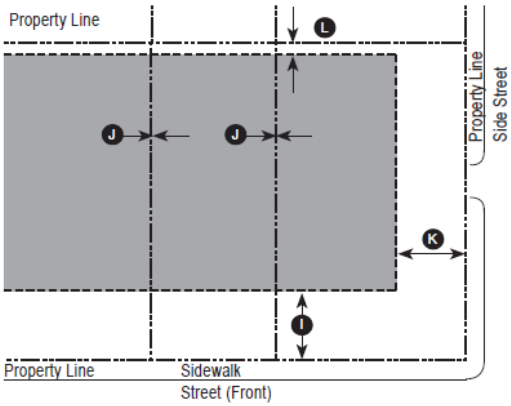
NOTES:

- Towers, cupolas, and other rooftop features with a footprint smaller than 20 feet by 20 feet may extend up to 30 feet above the designated height limit.

Building Placement		
Front Build-to Zone	0' minimum to 6' maximum	D
Frontage Build-out	80% minimum	E
Side Setback (mid-block)	0' minimum	F
Side Build-to Zone (corner)	0' minimum to 10' maximum	G
Rear Setback (lot or alley)	5' minimum	H
Rear Build-to Zone (street)	0' minimum to 10' maximum	
Rear Frontage Build-out (street ONLY)	60% minimum	

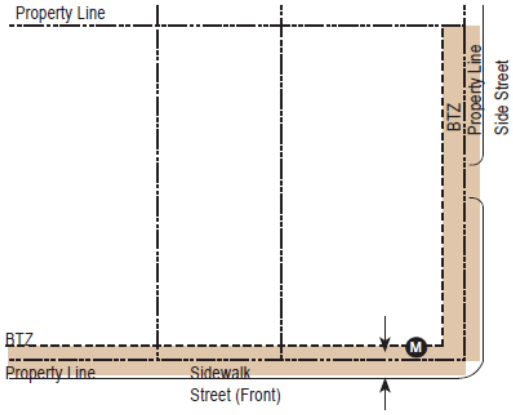
(h) WATERFRONT EDGE FRONTAGE STANDARDS

(iii) PARKING LOCATION



Key
Property Line
Parking Area
Setback Line

(iv) FRONTAGE ELEMENTS



Key
Property Line
Build-to Zone (BTZ)
Encroachment Area

Parking Location		
Front Setback	30' minimum (ground floor only)	I
Side Setback (mid-block)	0' minimum	J
Side Setback (corner)	30' minimum	K
Rear Setback (lot)	5' minimum	L
Rear Setback (alley)	0' minimum	
Rear Setback (street)	20' minimum	

NOTES:

- Parking shall be accessed from rear alleys or side streets whenever possible.

Frontage Elements		
Allowed Frontage Elements	Terrace or Lightwell, Forecourt, Stoop, Shopfront, Gallery, Arcade	M

NOTES:

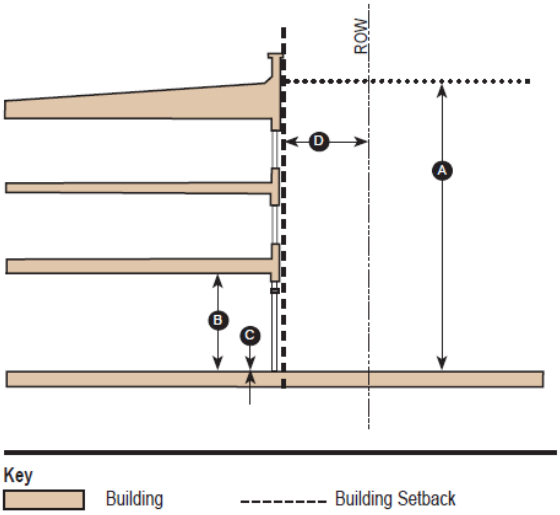
- Frontage Elements may encroach forward of the build-to zone and/or into the right-of-way, barring any additional restrictions by the public entity that has control over the public right-of-way.
- See Section 375-2(B)(1) (General Standards) for requirements of frontage elements.

Miscellaneous Notes

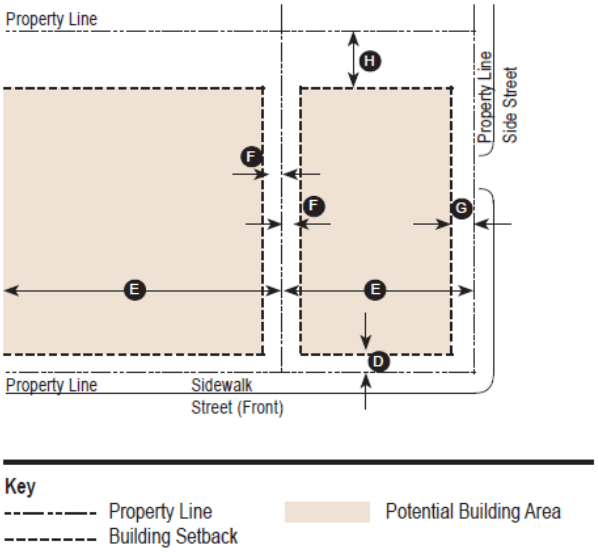
- All buildings must have a Primary Pedestrian Entrance along the front façade.
- Loading docks and other service entries shall not be located on Waterfront Edge frontages

(i) INDUSTRIAL WAREHOUSE FRONTAGE STANDARDS

(i) BUILDING HEIGHT



(ii) BUILDING PLACEMENT



Building Heights		
Building Height	1 Story minimum 3 Stories maximum	A
First Story (floor to floor)	no minimum	B
Ground Finished Floor above sidewalk or finished grade	0' min. (industrial/commercial)	C

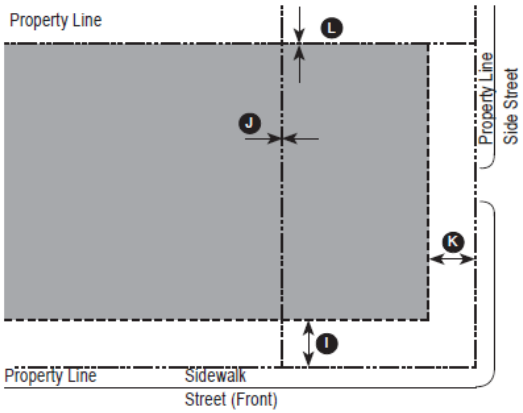
NOTES:

- Towers, cupolas, and other rooftop features with a footprint smaller than 20 feet by 20 feet may extend up to 30 feet above the designated height limit.

Building Placement		
Front Setback	8' minimum	D
Frontage Build-out	n/a	E
Side Setback (mid-block)	8' minimum	F
Side Build-to Zone (corner)	8' maximum	G
Rear Setback (lot or alley)	24' minimum	H
Rear Setback (street)	8' minimum	
Rear Frontage Build-out (street ONLY)	n/a	

(i) INDUSTRIAL WAREHOUSE FRONTAGE STANDARDS

(iii) PARKING LOCATION



Key

Property Line
Setback Line
Parking Area

Parking Location		
Front Setback	20' minimum	I
Side Setback (mid-block)	0' minimum	J
Side Setback (corner)	20' minimum	K
Rear Setback (lot)	0' minimum	L
Rear Setback (alley)	0' minimum	
Rear Setback (street)	0' minimum	

NOTES:

- Parking shall be accessed from rear alleys or side streets whenever possible.

(3) PARKING ACCESS

The provisions of Section 375-4(E) (Parking and Loading) shall apply in the MU-FW, MU-FC, MU-FS, and MU-FM districts.

(C) ACCESS, CIRCULATION, AND CONNECTIVITY

All development and redevelopment in the City shall comply with the following standards. If the provisions of this Section 375-4(A) conflict with the provisions of Section 375-4(B) (Form-Based Zoning Standards) applicable to the MU-FW, MU-FC, MU-FS, or MU-FM zone districts, the provisions of Section 375-4(B) shall apply.

(1) PURPOSE

The purpose of the standards in this Section 375-4(C) is to reduce the number and length of automobile trips and related greenhouse gas emissions by encouraging walking and bicycling by integrating sidewalks and bicycle routes in new development and redevelopment, and by providing for shorter and more direct routes between many destinations.

(2) GENERAL STANDARDS APPLICABLE TO ALL APPLICATIONS

(a) In addition to the standards set forth in this Section, all applications shall comply with the Manual on Uniform Traffic Control Devices (MUTCD) and all applicable local, state, and federal regulations.

(b) Except in the LC district, and unless otherwise provided in this USDO, a sidewalk of at least five feet in width shall be installed along each street frontage. Each sidewalk shall align with any existing sidewalks along the street frontages of adjacent properties. At least four feet of sidewalk width shall be maintained free of obstacles to free pedestrian passage, including but not limited to planters, hydrants, utility boxes, dining furniture or enclosures, light poles, and signs.

(c) Each required street, alley, driveway, sidewalk, walkway, and bicycle route shall comply with the City's adopted design, engineering, and construction standards, as amended, as well as the requirements of the Americans with Disabilities Act (42 U.S.C. 12101 et. seq.).

(d) All "places of public accommodation," as defined in the federal Americans with Disabilities Act (42 U.S.C. 12101 et. seq.) shall comply with the requirements of that act concerning on-site circulation and access.

(e) Where the City or another entity is implementing a federally funded program in support of walkability, and that program includes a sidewalk, walkway, or trail adjacent to the boundaries of a development or redevelopment involving residential uses, the project design shall allow citizens to access the route in a convenient and relatively direct manner.

(f) These standards shall apply to all form-based districts unless addressed within the form-based standards, in which case the form-based standards shall apply.

(3) STANDARDS APPLICABLE DURING SUBDIVISION OF LAND

(a) Streets shall be designed to allow the continuation of the existing local, collector, and arterial street network through the subdivision to the maximum extent practicable.

(b) In portions of the City where adjacent blocks contain alleys, alleys with the same orientation and alignment shall be included in the subdivision design.

(c) A maximum of 30 lots or units shall be permitted to be accessed from a single point of ingress/egress unless otherwise authorized by the City Fire Department.

(d) Each street or continuation of a street designated for an on-street bicycle route in the City's Bicycle Master Plan shall be designed to incorporate a bicycle route complying with the City's adopted design, engineering, and construction standards.

(e) All streets shall be designed to comply with the Albany Complete Streets Policy and Design Manual and the Administrative Manual, as those documents may be amended or replaced over time, using the street type most applicable to the proposed uses in the area being subdivided, as determined by the Chief Planning Official. In addition, new subdivision streets shall incorporate those Street Elements and Streetscape and Sidewalk Elements listed in the Albany Complete Streets Policy Design Manual and Administrative Manual to the maximum degree practicable.

(f) The design of each new subdivision street shall comply with the dimensions shown in the City's adopted design, engineering, and construction standards.

(g) Each new street shall be designed to incorporate stormwater retention, detention, and/or infiltration features to the maximum extent practicable in order to reduce combined sewer overflows during heavy rainfall events.

(h) Street signs shall be installed at each new street intersection and at each point at which a subdivision street meets an existing boundary street, unless a street sign already exists in that location, and shall be designed and built to the standards in the Manual on Uniform Traffic Control Devices (MUTCD).

(i) All subdivisions that include a new street shall provide street lights at each access point to the existing street network, at each street intersection within the subdivision, and along each subdivision street at a maximum spacing of 250 feet, unless otherwise determined by the Planning Board during subdivision review based on considerations of automobile, bicycle, and pedestrian safety.

(4) STANDARDS APPLICABLE ON PLATTED LOTS IN THE MU-FW, MU-FC, MU-FS, AND MU-FM DISTRICTS

(a) STREET HIERARCHY

On each parcel that has multiple street frontages, a street hierarchy will determine the highest priority (primary) street frontage where the Front Build-to Zone or Setback shall apply. Along the lower priority frontages, the side or rear (secondary) Build-to Zones or Setbacks shall apply. The designated street hierarchy for the form-based districts is as follows:

highest

Primary Street

Secondary Street

Tertiary Street

lowest

(b) GENERAL STANDARDS

(i) Potential new street / thoroughfare connections are identified on the MU-FW, MU-FC, MU-FS, and MU-FM district Regulating Plans. The precise location and alignment of new thoroughfares may be adjusted to allow flexibility in the design of the development plan, but the number of connections provided to surrounding parcels shall not be reduced.

(5) STANDARDS APPLICABLE ON PLATTED LOTS IN ALL ZONE DISTRICTS

The design of new streets and modifications to existing streets shall comply with the following requirements:

(a) GENERAL STANDARDS

(i) All thoroughfares shall connect to other streets.

(ii) Cul-de-sacs and T-turnarounds are not permitted.

(iii) Dead-end streets are only permitted when the adjacent property has not been developed or redeveloped.

(iv) All streets shall have at least two travel lanes, one in each direction; however, streets around squares may have one travel lane with one-way traffic.

(v) Where possible, there shall be parking lanes that can be used for on-street parking, "drop off" areas, valet stands, or bus stops.

(vi) On-street parking lanes shall not be closer than 20 feet to intersections measured from the intersecting lot lines.

(vii) All sidewalks shall have a minimum width of five feet, and a continuous unobstructed area of a width no less than 60 inches. This area shall be unobstructed by utility poles, fire hydrants, benches or any other temporary or permanent structures.

(viii) With the exception of fire hydrants, utilities shall run underground and above-ground projections of utilities shall be placed in or along rights-of-way of streets of lower street hierarchy or along utility easements at the rear of the lot to the maximum extent practicable.

(ix) Curb Radius

A. Streets with on-street parking shall have curb radii of 15 feet maximum. The effective turning radius is larger than the curb radius when parking is present. Thus, the turning radius is effectively 30 plus feet when the curb radius is 15 feet.

B. Corners without on-street parking require the turn and curb radii to be similar to the turning radii, with the curb radius between 20 feet and 30 feet.

(x) Alleys

A. Where possible, alleys shall be used for access to parking and services at the rear of lots, and shall comply with the dimensions shown in the table below.

Alley Type	ROW	Pavement Width
Residential	20 ft. max.	12 – 18 ft.
Nonresidential	20 ft. max.	18 – 20 ft.

B. Where an alley provides access to a block with both residential and nonresidential uses, the alley shall be built to the nonresidential standard.

C. Alleys shall meet the street with a design and construction allowing the sidewalk to continue uninterrupted across a drive with a fixed elevation for pedestrians.

(b) Residential Districts

(i) Direct access to individual single-family detached, two-family detached, and townhouse residential lots may only be taken from local streets. Where such lots front an arterial or collector street, access to individual lots should be from an alley or local street, as available. Where alleys provide rear access, no curb cuts, driveways or access shall be permitted from the front.

(ii) Curb cuts serving driveways used to access individual single-family detached, two-family detached, and townhouse residential lots shall not exceed 12 feet in width. Once the driveway extends into the lot beyond the sidewalk, it may widen to a driveway/parking area that complies with Section 375-4(E)(4)(c) (Parking Restrictions).

(iii) Direct access to a multi-family residential structure or group of structures shall not be from a local street, but shall instead be from an alley or an arterial or collector street, unless no practicable alternative exists.

(iv) Single lane driveways to a multi-family residential structure or group of structures shall not exceed 12 feet in width. Double lane driveways to a multi-family residential structure or group of structures shall not exceed 20 feet in width.

(v) Location and spacing of access points to individual lots containing residential uses shall comply with the standards in the City's adopted design, engineering, and construction standards.

(vi) Where alleys provide rear access, no curb cuts, driveways, or access shall be permitted from the front.

(c) Mixed-Use and Special Purpose Districts

(i) Direct access to a lot containing a primary structure or group of structures shall not be from a local street, but shall instead be from an alley or an arterial or collector street, unless no practicable alternative exists.

(ii) Driveways to a lot containing a primary structure or group of structures shall not exceed 20 feet in width.

(iii) Where more than four primary structures are located on a lot, internal streets or driveways shall be located to allow vehicle access between individual primary buildings and parking areas to avoid the need to use public boundary streets to move between different buildings or areas of the development site.

(iv) Where more than one primary structure is located on a lot, internal sidewalks or walkways shall be located to allow pedestrian access between individual principal buildings and parking areas and from individual principal buildings to the closest sidewalk along the boundary of the lot.

(v) Where a lot in the I-1 or I-2 district contains multiple principal structures, and a Residential zone district is located across a street from the I-1 or I-2 lot boundary, entries serving the I-1 or I-2 lot shall be placed out of alignment with streets or internal driveways serving the Residential zone district to keep heavy commercial traffic out of residential neighborhoods.

(vi) When a lot abuts public open space that includes existing or planned trails, a direct pedestrian connection from the development to the existing or planned trail shall be provided.

(D) SUBDIVISION OF LAND

(1) APPLICABILITY

The standards in this Section 375-4(D) shall apply to land in all zone districts whenever land is subdivided or re-subdivided to create or change the boundaries of parcels for development or redevelopment, and when two or more platted lots are consolidated to create a larger parcel for development or redevelopment, unless exempted by another provision of this USDO.

(2) GENERAL STANDARDS

(a) Each subdivision shall be consistent with the adopted Comprehensive Plan and shall comply with all applicable standards in this USDO for properties located in the zone district where the property is located, as shown on the official Zoning Map.

(b) These standards shall apply to all form-based districts unless addressed within the form-based standards in which case the form-based standards will prevail.

(3) AVOIDANCE OF SENSITIVE AREAS

All subdivisions shall be designed to avoid the placement of development lots on sensitive lands, including but not limited to areas within the FP-O district, Normans Kill stream corridors, wetlands, steep slopes, and rock formations.

(a) LAND ANALYSIS MAP

(i) Each applicant for subdivision or re-subdivision of a land area of five acres or more, either alone or contiguous with another subdivision by the same applicant, shall first prepare a Land Analysis Map identifying sensitive lands to be protected from development.

(ii) The Land Analysis Map shall identify as sensitive lands to be protected from development all of the following:

A. Any lands designated as floodway or flood fringe in the FP-O Floodplain Overlay district;

B. Any lands within 100 feet of the mean high water line of the Normans Kill, or within the 100-year floodplain of the Normans Kill;

C. Wetland areas, including but not limited to Waters of the United States under the jurisdiction of the US Army Corps of Engineers, and freshwater wetlands and streams subject to the jurisdiction of the New York State Department of Environmental Conservation;

D. Stream corridors, which shall include all land from top-of-bank to top-of-bank of any waterway that exceeds two feet in width at any time of year;

E. Steep slopes, which shall include all land with an average vertical slope of 25 percent or more, measured from top-of-slope to foot-of-slope;

F. Areas containing cultural or paleontological resources, including but not limited to structures designated by the National Register of Historic Places;

G. Any lands identified as unstable soils or designated by the state or a governmental agency as unsuitable for development; and

H. Any lands identified as habitat for species listed as threatened or endangered by the state or federal governments.

(b) AVOIDANCE OF SENSITIVE LANDS

Each subdivision or re-subdivision shall be designed so that:

(i) No lot for development or redevelopment includes any land designated as sensitive lands on the Land Analysis Map to the greatest degree practicable; and

(ii) If any lot does include land such sensitive lands, the subdivision plat restricts construction of permanent structures to a designated building envelope area on that lot that does not include any designated sensitive land areas; and

(iii) Street crossings of sensitive land areas are minimized to the maximum extent practicable.

(c) ADJUSTMENT OF MINIMUM LOT SIZES

If the avoidance any sensitive lands other than floodways and flood fringe areas in the FP-O district results in the subdivision containing fewer buildable parcels than it would have if sensitive lands were not avoided, the applicant may adjust the minimum lot size or lot width of lots in the subdivision by up to twenty-five percent in order to include as many lots as would have been possible if those sensitive lands were not avoided. No adjustment of minimum lot sizes or widths shall be made for avoidance of floodway or flood fringe areas.

(4) LOTS AND BLOCKS

(a) The perimeter of each block (excluding street rights-of-way) shall not exceed 1,500 feet.

(b) All lots shall comply with all requirements of this USDO for the zone district(s) and any overlay district(s) in which the property is located, as those requirements may be adjusted by other provisions of this USDO.

(c) All platted lots shall have actual frontage upon a street, unless the Chief Planning Official determines that due to topography, utilities, or other site-specific features, actual street

frontage is not feasible and that lot access through an irrevocable access easement will not harm the public health, safety, or welfare. The form of the irrevocable access easement must be acceptable to the Corporation Counsel.

(5) STREETS, ALLEYS AND SIDEWALKS

The subdivision shall comply with those standards applicable to the subdivision of land in Section 375-4(C) (Access, Circulation, and Connectivity).

(6) OPEN SPACE

(a) If a new subdivision will contain more than 20 residential dwelling units, or a resubdivision of land will increase the residential density of the subdivision by more than 20 dwelling units, the developer shall either donate land or make a payment to the City for the provision of open space benefitting the subdivision. This requirement does not apply to residential cluster subdivisions created under Section 375-4(D)(6).

(b) The Planning Board shall determine whether a donation of land, a payment in lieu of land dedication, or a combination of both, will be required, based on which will best meet the needs of the subdivision residents.

(c) If a land dedication is required:

(i) The amount of land required shall not exceed:

A. Ten percent of the gross area of the subdivision; or

B. That amount needed to serve the residents of the subdivision with open space at the same level enjoyed, on average, by other residents of the City, whichever is less.

(ii) The land dedicated shall not be located in the FP-O district, and shall not include any environmentally sensitive lands described in Section 375-2(F)(3) unless the Board determines that the inclusion of those areas are more consistent with the Comprehensive Plan than the inclusion of alternative areas, and that the inclusion of those areas will not harm the public health, safety, or welfare.

(d) If a payment-in-lieu is required:

(i) The payment shall not exceed:

A. Ten percent of full value of the land to be subdivided; or

B. That amount needed to acquire land needed to serve the residents of the subdivision with open space at the same level enjoyed, on average, by other residents of the City, whichever is less.

(ii) All funds received shall constitute a trust fund to be used by the Common Council exclusively for open space, neighborhood park, playground or recreation purposes, which may include the acquisition of land, the construction of facilities, or both.

(7) RESIDENTIAL CLUSTER SUBDIVISION

As provided in Section 37 of the General City Law, and as an alternative to compliance with the Dimensional Standards of Section 375-4(A), a residential subdivision containing only single-

family detached, two-family detached, or townhouse dwellings, may be designed as a residential cluster subdivision that complies with the standards in this Section 375-4(D)(7).

(a) PURPOSE

The purpose of cluster development is to promote the preservation of larger areas of open space and stronger protection of environmentally sensitive lands than is otherwise required by this USDO, and the more efficient use of land requiring smaller networks of streets and utilities.

(b) STANDARDS

(i) The proposed subdivision must contain a minimum of four acres of land.

(ii) The subdivision shall contain only single-family detached dwellings, two-family detached dwellings, and or townhouses in clusters of not more than five units.

(iii) At least 25 percent of the gross land area of the subdivision shall be set aside and deed restricted as open space, using a form of deed restriction acceptable to the Corporation Counsel. All deed restricted open space shall be managed and maintained by the residents of the cluster subdivision, or by a non-profit, land trust, or other land management organization, through a form of legal ownership acceptable to the Corporation Counsel.

(iv) The proposed density of development shall not exceed the density permitted for a conventional subdivision in the zoning district where the property is located after the avoidance of sensitive lands as required by Section 375-4(D)(3).

(v) Minimum lot widths and sizes otherwise applicable in the zone district where the property is located may be adjusted downward to allow the number of lots permitted by Section 375-4(D)(7)(b)(iv) above.

(8) STORM SEWERS AND DRAINAGE

The developer shall install, at the developer's expense, all site features and infrastructure necessary to retain, detain, and/or infiltrate stormwater to ensure that the new subdivision does not create additional burdens on the City's storm sewer system and does not create additional surface flooding. Developer's expense shall include the design and inspection of site features. All stormwater site features and infrastructure shall comply with:

(a) The City's adopted design, engineering, and construction standards; and

(b) The requirements of the FP-O and CS-O districts, if applicable.

(9) WATER SERVICE

The developer shall install, at the developer's expense, all infrastructure necessary to connect each subdivision lot to the City's existing water supply system. All required connections shall comply with the City's adopted design, engineering, and construction standards, as amended.

(10) SANITARY SEWER SERVICE

The developer shall install, at the developer's expense, all infrastructure necessary to connect each subdivision lot to the City's existing sanitary sewer system. All required connections shall comply with the City's adopted design, engineering, and construction standards, as amended.

(11) ELECTRIC SERVICE

The developer shall install, at the developer's expense, all infrastructure necessary to connect each subdivision lot to the electric service system. All required connections shall comply with the City's adopted design, engineering, and construction standards, as amended.

(12) UNDERGROUND UTILITIES

With the exception of fire hydrants, utilities shall run underground, unless the City determines that is impracticable due to the location and design of utilities to which the subdivision must connect.

(13) MONUMENTS

The developer shall install standard City monuments set in concrete at each corner of each lot, parcel or tract. If that is not practicable, the developer shall install four-inch square, concrete or granite right-of-way markers with center punch or steel core along one side of all new streets, outlining the exact limits of the street and identifying each corner or change in direction. The maximum distance between markers shall be 500 feet.

(E) PARKING AND LOADING

(1) APPLICABILITY

(a) No development plan shall be approved and no permit shall be issued for the erection or occupancy of a building or structure unless the use conforms to the parking requirements of this Section 375-4(E).

(b) GENERALLY

Unless otherwise stated in this USDO, the requirements in this Section 375-4(E) shall apply to all uses in all zoning districts in the following situations:

(i) NEW CONSTRUCTION

When a new primary building is constructed, the requirements of this Section 375-4(E) shall apply to the entire structure.

(ii) BUILDING EXPANSION

When the gross floor area of an existing primary structure on a site not otherwise exempt from these regulations is expanded by more than 25 percent of the existing floor area, the requirements of this Section shall apply to the expansion area (not the entire building). Smaller expansions do not require additional expanded parking areas.

(iii) **CHANGE OF USE**

A. When a change of a permitted use or approved conditional use results in an increase in required off-street parking of more than 50 percent above that required for the prior use, the requirements of this Section shall apply to the increase in required parking (not to any shortage of required parking related to the previous use). Other changes of use do not require expanded parking areas.

B. The provisions of Subsection (iii)(A) above do not apply to any change in use in a multi-tenant commercial, mixed-use, or industrial building larger than 50,000 square feet in gross floor area unless the Chief Planning Official determines that the change of use is likely to create a significant increase in on-street parking in any surrounding residential neighborhood.

(c) EXEMPTIONS

(i) No off-street parking is required for lots containing less than 5,000 square feet of gross site area.

(ii) No off-street parking is required within the Mixed-Use Downtown (MU-DT) District.

(iii) If compliance with the form-based zoning standards in Sections 375-2(D)(7), (8), (9) or (10) or in Section 375-4(B) would make it impossible to accommodate the minimum required number of off-street parking spaces on the site, then the Chief Planning Official may adjust the minimum number of required off-street parking spaces as necessary to comply with the intent of the form-based zoning standards. The number of off-street parking spaces may be reduced by the Planning Board through Development Plan Review.

(iv) If on-site parking spaces are provided in an exempt area, the provisions of this Section 375-4(E) addressing required layout, design, and quality of parking areas, and the provisions of this USDO addressing maintenance of parking areas, will apply to the parking provided.

(d) EXISTING PARKING

(i) An existing use as of June 1, 2017, which does not meet the minimum standards provided in this Section, shall be deemed a preexisting use not subject to the provisions of this Section.

(ii) Off-street parking or loading spaces provided prior to June 1, 2017 shall not be permanently reduced in any way that would bring the property or use out of conformance with this Section or would increase the degree of any existing nonconformity with the provisions of this Section.

(e) PARKING FOR UNLISTED USES

(i) For any use not specifically listed in Table 375-4-6, the parking provisions for a similar use, as determined by the Chief Planning Official, shall apply. The Chief Planning Official's decision shall be based on the location of the site, existing traffic congestion and parking levels, and the anticipated timing and volume of parking demand for the use.

(ii) For a new use where the Chief Planning Official determines that a similar parking rate is not stated in this USDO, the Chief Planning Official may establish a minimum parking requirement based on a parking study or parking reference guide in general use, or

after consultation with other City officials regarding potential parking needs, or a combination of those methods.

(f) ACCESSIBLE PARKING

Within the requirements of Table 375-4-6 and 375-4-7 (not in addition to those requirements), accessible parking shall be provided for all multi-family and nonresidential uses as required by the International Building Code, the Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities, and New York state statues, as amended.

(2) REQUIRED OFF-STREET PARKING

(a) MINIMUM REQUIRED PARKING

In all zoning districts, off-street parking shall be provided in accordance with Table 375-4-6: Minimum Required Off-Street Parking), as adjusted by other provisions of this USDO.

Table 375-4-6: Minimum Required Off-Street Parking

GFA = Gross Floor Area; NLA = Net Leasable Area; Sq. Ft. = Square Feet

LAND USE CATEGORY	Minimum Off-Street Parking Space Required (Proposed)	Minimum Bicycle Parking Required
RESIDENTIAL USES		
Household Living		
Dwelling, Single-Family Detached	1 per unit	Not Required
Dwelling, Two-Family Detached		
Dwelling, Townhouse	0 spaces	
Dwelling, Multi-Family	1 per unit	2 spaces or 10% of required vehicle spaces, whichever is greater. Min. 60% enclosed
Dwelling, Live-Work	1 per unit	Not Required
Group Living		
Assisted Living Facility or Nursing Home	Structure originally designed for household living use: Household living parking requirement. Other structure: 1 per 600 sq. ft. GFA	3 spaces
Community Residential Facility		
Group Living, Other		
Dormitory	0.5 per unit	20% of required vehicle spaces; Min. 60% enclosed
Rooming House	1 space plus 0.25 per guest bedroom	3 spaces or 10% of required vehicle spaces, whichever is greater; Min. 30% enclosed
CIVIC and INSTITUTIONAL USES		
Cemetery	None	Not Required
Club	1 per 300 sq. ft. GFA	3 spaces or 10% of required vehicle spaces, whichever is greater;
Community Center	1 per 300 sq. ft. GFA	

Table 375-4-6: Minimum Required Off-Street Parking

GFA = Gross Floor Area; NLA = Net Leasable Area; Sq. Ft. = Square Feet

LAND USE CATEGORY	Minimum Off-Street Parking Space Required (Proposed)	Minimum Bicycle Parking Required
Cultural Facility	1 per 500 sq. ft. GFA	Min. 30% enclosed
Day Care Center	1 per 300 sq. ft. GFA	Not Required
Higher Education Institution	1 per 400 sq. ft. GFA	20% of required vehicle spaces; Min.30% enclosed
Hospital	1 per 3 inpatient beds at design capacity	5% of required vehicle spaces; Min. 30% enclosed
Police or Fire Station	1 per 400 sq. ft. GFA	Not Required
Religious Institution	1 per 300 sq. ft. GFA	10% of required vehicle spaces, whichever is greater; Min. 30% enclosed
School	1 per 750 sq. ft. GFA	20% of required vehicle spaces
Stadium or Arena	1 per 4 persons of maximum occupancy	10% of required vehicle spaces, whichever is greater
Natural Area or Preserve	None	Not Required
Park or Playground		
Public Utility or Services, Major		
Public Utility or Services, Minor		
Towers		
COMMERCIAL USES		
Agriculture & Animal-Related		
Agriculture, Urban	None	None
Plant Nursery	1 per 1,000 sq. ft. NLA	3 spaces or 10% of required vehicle spaces, whichever is greater
Veterinarian or Kennel	1 per 400 sq. ft. NLA	3 spaces
Food & Beverage Services		
Bar or Tavern	1 per 150 sq. ft. NLA (excluding outdoor dining areas)	3 spaces or 10% of required vehicle spaces, whichever is greater
Restaurant		
Guest Accommodations		
Bed and Breakfast	0.75 per guest room	3 spaces or 10% of required vehicle spaces; Min. 60% enclosure requirement for Hotel
Hotel		
Office and Services		
Funeral Home or Crematorium	1 per 100 sq. ft. of main assembly room	Not Required
Office	1 per 400 sq. ft. NLA	10% of required vehicle spaces; Min. 60% enclosed
Personal or Business Service		
Trade School	1 per 400 sq. ft. NLA	
Recreation & Entertainment		

Table 375-4-6: Minimum Required Off-Street Parking

GFA = Gross Floor Area; NLA = Net Leasable Area; Sq. Ft. = Square Feet

LAND USE CATEGORY	Minimum Off-Street Parking Space Required (Proposed)	Minimum Bicycle Parking Required
Adult Entertainment	1 per 300 sq. ft. NLA	3 spaces or 10% of required vehicle spaces, whichever is greater
Indoor Recreation or Entertainment		
Outdoor Recreation or Entertainment	1 per 300 sq. ft. GFA plus 1 per 10,000 sq. ft. of outdoor activity area	3 spaces or 10% of required vehicle spaces, whichever is greater
Retail		
General Retail	1 per 400 sq. ft. NLA	3 spaces or 10% of required vehicle spaces, whichever is greater
Specialty Retail		
Adult Retail	1 per 300 sq. ft. NLA	
Controlled Substance Dispensary		
Convenience Retail		
Pawn Shop		
Supermarket		
Vehicles & Equipment		
Automobile Wash	1 per 500 sq. ft. NLA	Not Required
Dispatch Service or Freight Truck Terminal		
Heavy Vehicle and Equipment Sales, Rental, and Servicing		
Light Vehicle Sales, Rental, and Servicing		
Parking Lot	None	
Parking Structure	None	
Transit Facility	Not Required	
Vehicle Fueling Station	1 per 200 sq. ft. NLA	3 spaces
INDUSTRIAL USES		
Commercial Services		
Heavy Commercial Services	1 per 1,000 sq. ft. GFA	Not Required
Storage and Wholesale Distribution		
Self-Storage Facility	1 per 5,500 sq. ft. GFA	3 spaces
Manufacturing, Production, and Extraction		
Artisan Manufacturing	1 per 500 sq. ft. GFA	3 spaces or 10% of required vehicle spaces, whichever is greater
Heavy Manufacturing	1 per 1,000 sq. ft. GFA	Not Required
Light Manufacturing		
Marijuana Manufacturing Facility		

Table 375-4-6: Minimum Required Off-Street Parking

GFA = Gross Floor Area; NLA = Net Leasable Area; Sq. Ft. = Square Feet

LAND USE CATEGORY	Minimum Off-Street Parking Space Required (Proposed)	Minimum Bicycle Parking Required
Waste & Salvage		
Waste/Recycling Processing Facility	1 per 1,000 sq. ft. indoor GFA	Not Required
Recycling Drop-Off Center	1 space	
Landfill	None	
Vehicle Towing, Wrecking, or Junkyard		
ACCESSORY USES		
Home Occupation	None	Not Required
All Other Accessory Uses Listed in Table 375-2-1	None	Not Required
TEMPORARY USES		
Farmers' Market	None	5 spaces or 10% of required vehicle spaces, whichever is greater
All Other Temporary Uses Listed in Table 375-2-1	None	Not Required

(b) MAXIMUM PARKING PERMITTED

Surface parking spaces shall not exceed 115 percent of the minimums required in Table 375-4-6 (Minimum Required Off-Street Parking).

(3) PARKING ALTERNATIVES AND ADJUSTMENTS

The minimum and maximum amounts of parking required by Table 375-4-6 may be adjusted as described in this Section 375-4(E)(3).

(a) PROXIMITY TO TRANSIT

The minimum number of off-street parking spaces required for new development or redevelopment shall be reduced by 20 percent if the proposed development or redevelopment is located within ¼ mile of any transit stop with a peak service frequency of 15 minutes or better. Maximum parking limits shall remain as stated in Section 375-4(E)(2)(b). No development approved with this parking reduction shall be considered nonconforming if the bus or transit line is later relocated, or if peak frequency headways are raised above 15 minutes, and the number of parking spaces provided for that use does not meet the minimum requirements of Table 375-4-6. The Planning Department shall maintain a map of areas within the City that qualify for the proximity to transit exemption described in this Section.

(b) SHARED PARKING

Where two or more uses listed in Table 375-3-1 (Use Table), share a parking lot or structure, the total off-street automobile parking requirement for those uses may be reduced by the factors shown in Table 375-4-7 below. To calculate the shared parking reduction, add the requirements for each use category, then divide the sum by the factor indicated in Table 375-4-7. If more than two uses share a parking lot or structure, this adjustment is made for the two uses with the largest off-street parking requirements, and any parking requirements for additional uses shall be added to that adjusted requirement without further adjustment.

Table 375-4-7: Shared Parking Reduction
[Add the requirements and divide by these factors]

Property Use	Multi-Family Dwelling	Civic and Institutional	Food & Beverage Service, Guest Accommodations, Recreation & Entertainment	Retail, and Office & Services	Other Commercial Use
Multi-Family Dwelling	1.0	1.1	1.1	1.2	1.3
Civic and Institutional	1.1	1.0	1.2	1.3	1.5
Food & Beverage Service, Guest Accommodations, Recreation & Entertainment	1.1	1.2	1.0	1.3	1.7
Retail, and Office & Services	1.2	1.3	1.3	1.0	1.2
Other Commercial Use	1.3	1.5	1.7	1.2	1.0

Example Calculation- Shared parking proposed between a 60,000 sq. ft. School (Civic and Institutional use) and a 12,000 sq. ft. Indoor Recreation or Entertainment facility (Recreation use) would be calculated as follows:

- 60,000 sq. ft. School: Standalone Parking Requirement: 1 space per 750 sq. ft. GFA = 80 spaces
- 12,000 sq. ft. Indoor Recreation or Entertainment Facility: Standalone Parking Requirement: 1 space per 300 sq. ft. GFA = 40 spaces
- Shared Parking Calculation: 120 spaces / 1.2 (from table) = 100 spaces

(c) ON-STREET PARKING

In any Mixed Use or Special Purpose zoning district, the minimum amount of off-street parking otherwise required by this Section 375-4(E) shall be reduced by the number of legal on-street parking spaces located along the street or streets on which the subject property fronts. Such area shall be measured between extensions of the side or rear lot lines of the subject property as extended into the public right-of-way. Credit against minimum required off-street parking shall only be given for an on-street space if at least 50 percent of the length of the on-street space, measured along the curb, is located between such side or rear lot lines as extended. Such on-street parking spaces shall not be calculated

towards the maximum parking limits in Section 375-4(E)(2)(b). No on-street parking space may be signed or otherwise restricted for the use of the subject property

(d) OFF-SITE PARKING

(i) In the Mixed-Use zoning districts, as an alternative to providing on-site parking, required parking spaces that are not required to be provided on-site by the Americans with Disabilities Act or state law may be provided at a location up to 1,000 feet walking distance from the development or redevelopment it serves.

(ii) Off-site parking for a nonresidential use shall not be located in a Residential zoning district unless the use for which the parking is provided is a permitted or conditional use in that Residential district.

(iii) The applicant for approval of off-site parking shall provide evidence, at the Chief Planning Official's request, that the proposed off-site parking location will remain available for the proposed parking use for a period of at least two years.

(e) PARKING DEMAND STUDY

(i) The Chief Planning Official may approve an alternative parking plan that reduces off-street parking requirements below those shown in Table 375-4-6 based on a parking demand study and Transportation Demand Management (TDM) program.

(ii) The TDM plan shall include facts and/or projections including the type of development, proximity to transit and/or other multi-modal systems, anticipated number of employees and/or patrons, minimum parking requirements, and indicate the types of Transportation Demand Management activities that will be instituted to reduce single-occupant vehicle use and ease traffic congestion.

(iii) The TDM plan shall demonstrate that the resulting traffic demand shall not result in traffic congestion in the surrounding area and that the resulting off-street parking provided shall not result in on-street parking congestion in the surrounding area.

(iv) The Chief Planning Official may require a traffic study, including an analysis of impacts to transit, to be performed by a licensed professional engineer or traffic consultant, and a Transportation Demand Management agreement, when the application is for a project that:

A. Contains more than 20 dwelling units; and/or

B. Contains more than 25,000 square feet of nonresidential gross floor area; and/or

C. Is located on an arterial street; and/or

D. Is located on a collector street that has experienced peak hour traffic congestion; and/or

E. The Chief Planning Official determines may otherwise have an adverse impact on traffic congestion or traffic safety in the surrounding area.

F. If the proposal exceeds the parking minimum by more than 10 percent.

(v) Additional fees may be assessed to defray the additional processing costs in reviewing a parking demand study, including any third party review determined by the Chief Planning Official to be required because of the complexity of the study or the surrounding context, and any subsequent agreements.

(f) Payment of Fee-in-lieu of Providing Required Parking

This Section 375-4(E)(3)(f) describes the City's system for accepting payment of fees-in-lieu of required parking, but will not be applicable until the Common Council adopts administrative procedures for assessing, collecting, accounting for, and spending fees-in-lieu of required parking in compliance with applicable law. Where any of the required parking is satisfied under an approved fee-in lieu of parking, such satisfaction shall run with the land unless any agreement stipulates otherwise. Following such action by the Common Council, fees-in-lieu may be paid in accordance with the following:

(i) In the Mixed Use zoning districts, the applicant may pay a fee-in-lieu of providing some or all of the required off-street parking required by Table 375-4-6. The fee-in-lieu to be charged shall be based on the average cost to the City of acquiring land and constructing parking spaces in a surface lot or parking structure within a reasonable distance of the proposed development or redevelopment, as established by the Common Council.

A. A fee-in-lieu is available if the Planning Board determines that, due to the availability of transit, unique characteristics of the use or area, the availability of off-site public parking in the area, or other factors, the development or redevelopment will not result in traffic or parking congestion in the surrounding area. The Planning Board may require the preparation of a traffic or parking study, at the applicant's expense, before making this determination.

B. The City shall not issue a Certificate of Occupancy for any portion of the project for which on-site parking or off-site parking has not been provided until the fee-in-lieu has been paid.

C. The City shall deposit the fee-in-lieu of parking payments into an account designated for the provision of parking spaces and shall not commingle the funds with other funds of the City. The City shall expend the fee-in-lieu payments to provide parking spaces within a reasonable distance of the development or redevelopment within ten years after the payment is made, or shall refund the payments, with interest, at the end of that period. City costs for which fees-in-lieu of parking may be spent include but are not limited to the cost of land, leases, rights, easements and franchises; financing charges; interest paid before and during construction; cost of plans and specifications; cost of engineering and legal services and other expenses necessary or incidental for determining the feasibility or practicability of construction, reconstruction or use; cost of all labor and materials; and administrative expenses and such other expenses as may be necessary or incidental to the provision of public parking spaces.

(g) Future Parking Area Set Aside

Where it is unclear whether the full amount of required parking will be used by a proposed use or facility, a parking area set aside may be designated through Development Plan Review process. If a parking area set aside is requested by either the applicant or the City, the Planning Board may approve a site layout that does not require all of the required parking to be constructed at once, but instead provides for grassed areas to be converted to parking spaces if the need for additional parking arises in the future. However, storm water and drainage requirements shall be based on full build-out of the parking area.

(4) PARKING RESTRICTIONS

The following provisions apply in all zoning districts:

(a) No parking area shall be used for the sale, storage, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies, unless permitted under Section 375-3(C).

(b) No surface parking area shall be used for sales of goods at retail or wholesale unless permitted under Section 375-3(C).

(c) Parking spaces for any single- or two-family residential structure shall not be provided in the front setback area or any area forward of the front wall plane of the structure unless they are located on a paved area that does not exceed 35 percent of the lot width or the width of any paved parking area that exists on June 1, 2017, whichever is wider. The maximum percentage of lot width used for parking may be increased to 50 percent if at least the additional 15 percent of lot width used for parking is surfaced with pervious pavers acceptable to the City, rather than with an impervious surface. Parking of any vehicle on any other part of the front yard area for a single- or two-family structure is prohibited. Parking of any motor vehicle on dirt, grass, or any surface other than paving material or pervious pavers acceptable to the City is not permitted.

(d) Boats, boat trailers, trailers, campers, and recreational vehicles shall only be stored in a rear yard.

(e) In the R-M, R-V, MU-NE, MU-NC, MU-I, MU-CU, MU-DT, and I-1 districts, off-street parking and vehicle maneuvering areas shall be provided behind the front wall plane of new and redeveloped buildings, or shall be located within the principal building or within a garage structure, to the maximum degree practicable.

(f) In the MU-FW, MU-FC, MU-FS, and MU-FM districts, off-street parking facilities shall be located to the rear of the primary building, within the principal building, or within a garage structure.

(5) PARKING LOT AND GARAGE DESIGN STANDARDS

(a) APPLICABILITY

The standards contained in this Section 375-4(E)(5)shall apply unless in conflict with other applicable standards adopted by the City that take precedence over this USDO.

(b) OFF-STREET PARKING LAYOUT DIMENSIONS

(i) All required parking spaces shall comply with the minimum dimensions for spaces shown in Figure 375-4-6 and described Table 375-4-8 below.

Table 375-4-8: Parking Layout Dimensions

(1)	Parking Angle (degrees)	0°	30°	45°	60°	90°
(2)	Space Width (ft.)	9	9	9	9	9
(3)	Curb Length per Space (ft.)	22	20	14.2	11.5	10
(4)	Space Depth (ft.)	10	18.7	21.4	22.4	20
(5)	Access Aisle Width (ft.)	12	11	14	19	24

(ii) If the degree of angle of parking provided is not listed, the aisle width required shall be the next largest angle of parking shown.

(iii) If parking spaces are located only on one side of the access aisle, the width of the access aisle may be reduced by 20 percent but not less than 12 feet wide, or 18 feet wide if a designated fire lane.

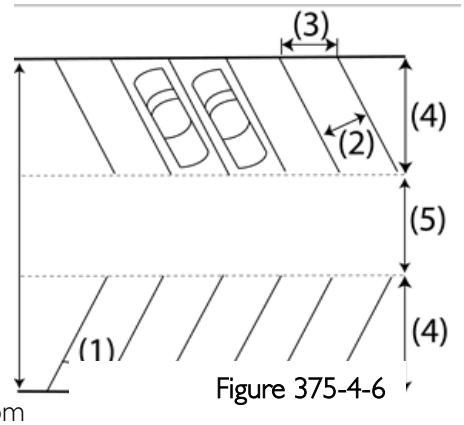


Figure 375-4-6

(c) Parking Access

(i) All parking shall be accessed from rear alleys where they exist (see Figure 375-4-7) and/or from side streets if the lot is located on a corner in all districts except MU-CH. If no rear alley or side street exists, efforts should be made to demonstrate an attempt to gain access across neighboring properties. In MU-NE and MU-NC districts, side parking shall be no wider than the double-loaded maximum (60 feet).

(ii) When access to rear parking must be directly from the primary street, driveways shall be located along the sides of the lot lines (see Figure 375-4-7) and designed to meet the access driveway widths set forth in Subsection (e) below.

(iii) The Planning Board through Development Plan Review may require cross-connection easements and connections to adjoining parking lots or commercial parcels.

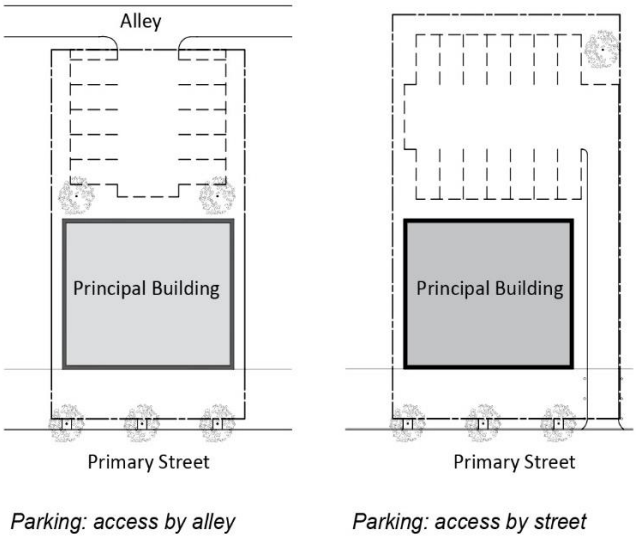


Figure 375-4-7: Parking Entrances Shall Not be Situated Adjacent to Primary Streets

(d) Turnaround Areas

Parking areas shall be arranged with turnaround areas to permit cars to exit the area without backing onto any street or sidewalk, to the maximum extent practicable.

(e) Access Driveways

Every parking lot containing 20 or more spaces shall be provided with a two-way driveway not exceeding 20 feet in width or two one-way driveways not exceeding 12 feet in width.

(f) Marking of Spaces

All parking space stalls shall be clearly marked on the pavement.

(g) CAR STOPS

Car stops or other suitable devices, as determined by the Chief Planning Official, may be required to protect fencing, landscaping, and other screening devices from damage.

(h) PROTECTION OF RESIDENTIAL DISTRICTS

(i) On lots in the Mixed-Use or Special Purpose zoning districts that are adjacent to a Residential zone district, parking spaces shall not be located within ten feet of the front lot line.

(ii) Parking lots may be constructed in any Residential district to serve a use that is not a Permitted or Conditional use in that zoning district, provided that the parking lot:

A. Abuts the Mixed-Use or Special Purpose district where the use to be served is located, abuts an existing nonconforming nonresidential use in the Residential district, or abuts a property that is operating as a nonresidential use under a use variance; and

B. Has vehicular access only through the abutting Mixed-Use or Special Purpose district, the property containing the abutting nonresidential use, or by way of a street upon which the Mixed-Use or Special purpose district, or nonresidential use, fronts.

(i) SURFACING AND DRAINAGE

(i) Except as provided for in Subsection (ii) below, all off-street parking and loading areas shall be surfaced with asphalt, concrete, brick, stone, pavers, or an equivalent hard, dustless, all-weather, and bonded surface material approved by the City. Use of surfacing that includes recycled materials such as glass, rubber, used asphalt, brick, block, and concrete is encouraged.

(ii) The use of pervious or semi-pervious surfacing materials including but not limited to pervious asphalt and concrete, open joint pavers, and reinforced grass/gravel/shell grids may be approved for off-street parking and loading areas, provided that the surfacing is subject to an on-going maintenance program (e.g., sweeping, annual vacuuming). Any pervious or semi-pervious surfacing used for aisles within, or driveways to, parking and loading areas shall be approved by the City as capable of accommodating anticipated traffic loading stresses and maintenance impacts. Where possible, such materials should be used in areas proximate to and in combination with onsite stormwater control devices, such as bioswales.

(iii) In the PB-O district, use of pervious or semi-pervious paving materials is mandatory rather than optional.

(j) LANDSCAPING AND SCREENING

All parking lots and garages shall comply with the landscaping and screening standards in Section 375-4(F)(6).

(k) LIGHTING

All parking lots and garages shall comply with the outdoor lighting standards in Section 375-4(H).

(l) SNOW STORAGE

All surface parking lots shall provide a snow storage area sized to accommodate expected snowfall and located to ensure that fencing, landscaping, and other screening devices are protected from damage.

(m) PEDESTRIAN SAFETY

(i) Each surface parking area containing 100 or more parking spaces, any of which are located more than 300 feet from the front façade of the building, shall contain at least one walkway that enables a pedestrian to travel from the farthest row of parking to the primary building entrance without crossing any parking spaces or drive aisles. Additional walkways shall be included and spaced 200 feet apart to ensure that no parking space in the farthest row of the parking lot is more than 200 feet from any walkway. If there is a public sidewalk along the street frontage located within 50 feet of any required walkway, the walkway shall connect to that sidewalk.

(ii) The City may require installation pedestrian safety devices, such as convex mirrors or other warning devices, if the Chief Planning Official determines that there would be a significant risk to public health or safety without the installation of those devices.

(n) PARKING GARAGE DESIGN

Aboveground parking garages or portions of structures occupied by automobile parking shall meet the following standards:

(i) The height of an accessory parking garage shall not exceed the height of the principal structure it is intended to serve.

(ii) Open-air, rooftop parking is permitted, but shall be screened by a parapet wall or similar building feature that is an integral part of the building's architectural design and is of sufficient height to screen the parked and circulating vehicles when viewed at ground level from any public right-of-way adjacent to the property. The parapet wall shall be included in the maximum permitted height of the parking garage.

(iii) All vehicle parking surfaces along any street frontage of the garage shall be horizontal, rather than an angled surface or ramp leading to a higher or lower level of the garage.

(iv) Elements such as decorative grillwork, louvers, or translucent materials shall be used to cover window-like openings on all elevations facing a public right-of-way. The design and materials shall conceal the view of all parked cars below the hoodline through the use of opaque or semi-opaque façade materials that extend at least three feet in height above the vehicle parking surface.

(v) When located in any Mixed-Use zoning district, the ground floor of the parking garage shall be designed so that any frontage adjacent to a public street has a minimum floor to ceiling height of 13 feet and a minimum bay depth (not required for vehicle circulation inside the garage) of 20 feet, in order to accommodate commercial or institutional uses along the street frontages, or to allow conversion of street frontage spaces to commercial or institutional uses in the future.

(vi) Any vehicle exit barrier, including but not limited to a gate or payment booth, shall be located at least 20 feet inside the exterior wall of the parking structure.

(vii) The City may require installation pedestrian safety devices such as convex mirrors or other warning devices if the Chief Planning Official determines that there would be a significant risk to public health or safety without the installation of those devices.

(6) BICYCLE PARKING STANDARDS

(a) Bicycle parking spaces shall be provided as shown in Table 375-4-6.

(b) When the off-street parking requirements in Table 375-4-6 are applied in the MU-FW, MU-FC, MU-FS, and MU-FM districts, the bicycle parking requirements for the most similar use listed in Table 375-3-1: Permitted Use Table) as determined by the Chief Planning Official, shall apply.

(c) Bicycle parking shall be located in highly visible areas near the intended use.

(d) Bicycle parking racks shall be positioned out of walkway clear zones.

(e) Bicycle parking racks shall be located to avoid potential conflict with parking and circulation of motor vehicles.

(f) Bicycle parking racks shall support the frame of a bicycle upright in two places.

(g) Bicycle parking racks shall enable the bicycle frame and one or both wheels to be secured through use of a "U" type lock.

(h) Bicycle parking racks shall be securely anchored to an approved hard surface.

(i) A two foot by six foot space is required to accommodate two bicycles.

(j) Parallel bike racks shall have a minimum on-center spacing of 30 inches. Spacing of 48 inches is optimal.

(k) Required enclosed bicycle parking shall mean bicycle parking that is located in one of the following:

(i) In a locked room;

(ii) In an individual or community storage area;

(iii) In a bicycle locker;

(iv) In a locked area that is enclosed by a fence or wall with a minimum height of eight feet;

(v) In a private garage serving a dwelling within a multi-unit (residential) building; or

(vi) Inside a residential dwelling unit if the dwelling unit has an exterior ground floor entry.

(7) OFF-STREET LOADING STANDARDS

The following provisions apply in all zoning districts.

(a) GENERAL REQUIREMENT

(i) A minimum of one loading space shall be provided for each public/institutional, commercial and industrial use exceeding 25,000 square feet of gross floor area,

(ii) Each off-street loading space shall comply with Table 375-4-9 and Table 375-4-10 below:

Table 375-4-9: Off-Street Loading Requirements	
Use Size (GFA)	**Loading Spaces Required**
Under 25,000 sq. ft.	None
25,000 – 49,999 sq. ft.	1
50,000+	2

Table 375-4-10: Dimensions of Loading Spaces	
Dimension	**Size (feet)**
Width	12
Length	35 (55 for tractor-trailers)
Height	14

(iii) Owners of two or more uses requiring the joint use of off-street loading facilities may file an executed agreement with the Chief Planning Official, in a form approved by the City, providing for joint use of loading facilities and demonstrating the adequacy of the facility to serve anticipated loading needs.

(iv) Where it can be demonstrated that loading / deliveries will occur during times when parking areas will be used at less than 75 percent of capacity, or that deliveries will occur during hours when the establishment or facility is not open for normal business activities, the requirement for loading areas may be waived by the Planning Board through the Development Plan Review process.

(b) Design and Use of Off-Street Loading Areas

(i) Off-street loading spaces shall be located on the same lot or parcel as the structure or use for which it is provided.

(ii) Loading spaces and maneuvering areas shall be designed so that loading operations:

A. Do not encroach upon any sidewalk, street, public right-of-way, or fire lane; and

B. Do not occupy any required off-street parking spaces or access driveways.

(iii) No loading space shall be located within any required front yard.

(iv) No loading space shall be located closer than eight feet from a lot line abutting any Residential zoning district.

(v) All loading areas shall comply with the landscaping and screening standards in Section 375-4(F)(6).

(vi) All loading areas shall comply with the outdoor lighting standards in Section 375-4(H)

(vii) All loading areas shall provide a snow storage area sized to accommodate expected snowfall and located to ensure that fencing, landscaping, and other screening devices are protected from damage.

(8) Drive-Through Vehicle Stacking Standards

The following standards apply to all properties with a drive-through facility designed for access from a vehicle (rather than a walk-up facility).

(a) STACKING SPACE REQUIREMENTS

Vehicle stacking spaces for drive-through facilities shall be provided to comply with Table 375-4-11 and Figure 375-4-8.

Table 375-4-11: Drive-Through Stacking Space Requirements

Activity	Minimum Stacking Spaces (per lane)	Measured From
Bank, Financial Institution, or Automated Teller Machine (ATM)	MU-CH: 4 Other districts: 2	ATM or Window
Restaurant/Retail Store	MU-CH: 4 Other districts: 2	Pick-Up Window
Full Service Vehicle Washing Establishment	MU-CH: 4 Other districts: 2	Outside of Washing Bay
Self-Service or Automated Vehicle Washing Establishment	1	Outside of Washing Bay
Other	Determined by the Chief Planning Official based on anticipated need and avoidance of traffic congestion on adjacent streets	

(b) LOCATION AND DESIGN OF STACKING LANES

(i) Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be audible beyond the lot line of the site.

(ii) No service shall be rendered, deliveries made, or sales conducted within the required front yard or corner side yard; customers shall be served in vehicles through service windows or facility located on the non-corner sides and/or rear of the principal building.

(iii) Drive-through stacking lanes shall have a minimum width of ten feet and a minimum length of 20 feet.

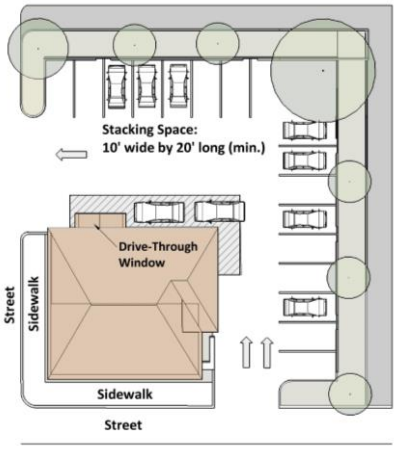


Figure 375-4-8

(F) LANDSCAPING, SCREENING AND BUFFERING

(1) PURPOSE

The intent of this Section 375-4(F) is to:

(a) Promote a healthy environment by providing shade, air purification, oxygen regeneration, groundwater recharge, stormwater runoff management, erosion control, and reductions in noise, glare and heat island effects; and

(b) Provide visual buffering from streets, buffering of potentially incompatible land uses, and generally enhance the quality and appearance of the City; and

(c) Encourage the preservation of existing trees and vegetation that offer environmental, aesthetic, habitat, sustainability, and economic benefits to the City and its citizens.

(2) APPLICABILITY

(a) Provisions of this Section shall apply as follows:

(i) Subsections (3) (General Landscaping Standards), (8) (Walls and Fences), (9) (Screening of Service Areas and Equipment), (10) (Vision Clearance and Public Safety), and (11) (Stormwater Management) apply to all development and redevelopment.

(ii) Subsections (4) (Street Trees and Lot Frontage Landscaping) and (5) (Side and Rear Lot Line Buffers) and related provisions of subsection (7) (Preservation of Existing Landscaping) apply to all lots with more than 10,000 square feet of lot area

(iii) Subsection (6) (Parking Lot Landscaping) and related provisions of subsection (7) (Preservation of Existing Landscaping) apply to all lots with more than 10,000 square feet of lot area that contain a principal structure with a principal use and that contains:

A. A parking area or lot used for or ancillary to a commercial, industrial or institutional use; or

B. A parking area or lot for five or more vehicles that is ancillary to a residential use (see Section 375-4(F)(6)below).

(b) Compliance with the provisions of this Section is required when:

(i) A new primary structure is constructed; or

(ii) The gross floor area of an existing principal structure is increased by more than 25 percent; or

(iii) An existing principal structure is relocated on the lot or parcel; or

(iv) The principal structure is renovated or redeveloped (including but not limited to reconstruction after fire, flood, or other damage), and the value of that renovation or redevelopment, as indicated by the building permits, is more than 25 percent of the actual value of the property, as indicated by City tax assessment records; or

(v) A new parking lot containing four or more spaces is constructed; or

(vi) An existing parking lot containing four or more spaces is redesigned or reconstructed with significant changes to the layout of parking spaces, driving aisles, and access drives.

(c) In case of any conflict between the various landscaping standards in this Section 375-4(F) the stricter standard shall apply. Wherever the requirement for two or more landscaping standards overlap, the same plant material may be counted toward meeting the requirements of both standards.

(d) Vacant lots shall comply with the requirements of Section 151-20C (Vacant Lots) of the City Code.

(e) These standards shall apply to all form-based districts unless addressed within the form-based standards, in which case the form-based standards will prevail.

(3) GENERAL LANDSCAPING STANDARDS

(a) REQUIRED PLANT MATERIALS

(i) Tree and shrub species used to meet the landscaping requirements shall be from the City of Albany Selected Plant List, as approved by the City Forester, and as may be amended from time to time. Upon presentation of evidence, the Chief Planning Official may authorize alternative species or cultivars that meet the intended purpose, are not invasive or hazardous, and are equally hardy and capable of withstanding the local climate.

(ii) Plants listed on the City of Albany Prohibited Plant List, as amended, or on any state government list of invasive or prohibited species shall not be installed and shall not be counted towards meeting any landscaping requirement.

(iii) All plant material shall be hardy to the Albany region, suitable for the site, free of disease and insects, and shall conform to the American Standard for Nursery Stock (ASNS) of the American Nursery and Landscape Association for the quality and installation of that plant.

(iv) In all areas where landscaping is required, a minimum of 80 percent of the surface area shall be covered by living materials, rather than mulch, bark, gravel, or other non-living material.

(v) The use of synthetic vegetation (plastic plants, etc.) shall not be used to meet any of the required landscaping, screening, or buffering standards.

(vi) Landscape areas, as required by this USDO, shall be designed to be drought tolerant.

(b) SOIL CONDITION AND PLANTING BEDS

(i) All landscaping required by this USDO shall be planted in uncompacted soil.

(ii) The planting bed of required trees and shrubs shall be mulched with shredded bark or wood mulch. The planting bed for groundcover plantings, including perennial and annual flowers, shall be mulched.

(iii) All landscaped areas shall be protected from vehicular encroachment by curbs or wheel stops. Curbs shall be provided with openings to accommodate surface collection of stormwater runoff in vegetated swales and detention facilities.

(c) MINIMUM PLANT SIZES AT INSTALLATION

Unless otherwise specifically noted, the minimum plant size of required landscaping at the time of installation shall be according to Table 375-4-12.

Table 375-4-12: Minimum Plant Size

Plant Type (ASNS types)	Minimum Size
Large Deciduous Shade Tree – mature height greater than 45 ft.	Two-inch caliper, measured six inches above the ground, as specified by the American Standard of Nursery Stock.
Medium Deciduous Shade Tree – mature height greater than 30 ft.	Two-inch caliper, measured six inches above the ground, as specified by the American Standard of Nursery Stock.
Small Deciduous Shade Tree – mature height greater than 20 ft.	As specified by the American Standard of Nursery Stock, except for true dwarf species.
Ornamental Tree	Four feet in height, as specified by the American Standard of Nursery Stock, except for true dwarf species

Table 375-4-12: Minimum Plant Size	
Plant Type (ASNS types)	**Minimum Size**
Conifers	Six feet in height
Shrubs	Five-gallon container size
Ground Cover Plants (crowns, plugs, containers)	A species-appropriate number to provide 50% surface coverage after two growing seasons
Grass Seeding or Sod	Seed mix shall be of pure live seed weight and 99% weed free.

(d) PLANT MATERIAL SPACING

(i) A minimum three-foot radius shall be provided free of trees or shrubs around fire hydrants, valve vaults, hose bibs, manholes, and fire department connections.

Figure 375-4-9

(ii) Where tree planting requirements are based on linear street frontage, areas occupied by driveways shall be included when calculating the number of trees required to be planted, and all trees that would otherwise be required in driveways shall be planted in other landscaped front yard areas.

(iii) The Chief Planning Official or the City Forester may authorize adjustments to these spacing requirements when required due to topography, drainage, utilities or obstructions, or because of the space needs of different species of vegetation, provided that the total amount of required landscaping is not reduced.

(e) VEGETATIVE COVERAGE

Any development or redevelopment site that triggers the requirements of this Section shall ensure that landscaping, screening, and/or buffering achieves at least the equivalent of 30 percent lot coverage by vegetated material to the greatest degree practicable.

(f) SNOW STORAGE AREAS

Snow storage area(s) shall be provided to ensure that landscaping, fencing and other screening devices are protected from damage during snow storage operations.

(g) LOW IMPACT DEVELOPMENT / STORMWATER TREATMENT

(i) On any development or redevelopment site larger than two acres, at least 25 percent of required landscaped areas shall be designed and constructed to serve as stormwater infiltration and treatment facilities for stormwater falling on impervious surfaces on the lot or parcel.

(ii) On smaller development or redevelopment sites, required landscaping shall be designed and constructed to serve as on-site stormwater infiltration and treatment facilities to the maximum degree practicable.

(4) STREET TREES AND LOT FRONTAGE LANDSCAPING

(a) Where a detached sidewalk and a planting area between the sidewalk and street or curb exists, at least one shade tree shall be planted per 35 linear feet of street frontage. Required trees shall be planted with 35 foot on-center spacing to the maximum degree practicable. Where the planting of shade trees would interfere with overhead electric power lines, at least one ornamental tree with a mature height of 12 feet shall be planted per 20 feet of street frontage.

(b) Where a detached sidewalk does not exist, one shade tree per 35 linear feet of street frontage shall be planted in alignment with any similar street frontage landscaping on adjacent lots; if that is not possible or adjacent lots do not contain front yard landscaping, then the trees shall be planted with 35 foot on-center spacing and within 25 feet of the right-of-way to the maximum degree practicable.

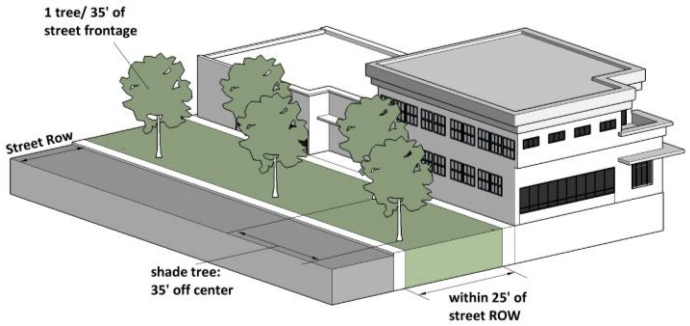


Figure 375-4-10

(c) Where the sidewalk extends from the back of curb to the lot line or building frontage, tree wells shall be installed in the sidewalk to allow planting of one shade tree per 35 feet of linear street frontage. Tree wells in sidewalks five feet wide or less shall be covered with a tree grate or pervious pavement, and the opening in a tree grate for the trunk must be expandable and level with the sidewalk or adjacent surface.

(d) All plantings in the public right-of-way require approval by the Department of General Services. Plantings deemed unsafe or impracticable by the Department of General Services due to utility, slope, maintenance, location, visibility, alignment, or other factors are not required to be installed in those locations, but the Chief Planning Official may require that substitute landscaping be installed elsewhere on the property.

(e) After June 1, 2017, in addition to the provisions for street trees in subsections (a) through (d) above, where the primary structure is located more than 20 feet from the lot line, a minimum of 20 percent of the area between the front lot line and the primary building façade must be landscaped with vegetative cover, shrubs, or trees in the following situations.

(i) All multi-family and nonresidential principal structures in Residential zone districts;

(ii) All principal structures in the Mixed-Use zone districts and the I-1 district, unless the Planning Board approves an alternative hardscape plan that includes outdoor seating.

(f) After June 1, 2017, in addition to the provisions for street trees in subsections (a) through (d) above, the following standards shall apply to all lots in a Residential zone containing a

single-family or two-family dwelling that is located more than 20 feet from the front lot line or from a side street lot line:

(i) No more than 20 percent of the area between the primary structure and the street shall be covered with impervious surface, and the remainder of such areas shall be landscaped with vegetative cover, shrubs, trees, or other pervious treatment.

A walkway of up to five feet in width shall be permitted to cross the area between each street frontage and primary structure or accessory structure, and one driveway of up to 20 feet in width shall be permitted to cross the area between one street frontage to a principal or accessory structure, even if the walkway(s) and driveway would result in more than 20 percent of the applicable yard having impervious surfaces.

(5) SIDE AND REAR LOT LINE BUFFERS

(a) A landscaped buffer shall be provided along each side or rear lot line by an applicant seeking City approval for development or redevelopment where the any of the following abutting conditions occur and the two properties are not separated by a street, alley, stream, or railroad right-of-way.

(i) Where a lot in the Residential zoning district that contains a multi-family dwelling structure or any nonresidential structure abuts a lot that contains an occupied single-family detached dwelling, two-family detached dwelling, or townhouse.

(ii) Where a lot in a Mixed Use or Special Purpose zoning district that contains a multi-family dwelling structure or any nonresidential structure abuts a lot in a Residential zoning district that contains an occupied single-family detached dwelling, two-family detached dwelling, or townhouse.

(iii) Where a lot in a Mixed-Use and Special Purpose zoning districts (but excluding the MU-DT district) that contains a principal use categorized in Table 375-3-1: Permitted Use Table) as an industrial use other than Artisan Manufacturing abuts a lot containing an occupied principal use categorized in Table 375-3-1: Permitted Use Table), as Artisan Manufacturing, or anything other than an industrial use.

(iv) In all zoning districts, where a new or redeveloped principal structure will contain four or more stories, and the abutting property contains an occupied principal structure containing two or fewer stories.

(b) Where buffer landscaping is required pursuant to Subsection (a), the buffer landscaping shall comply with one of the following options:

(i) Option 1: Available in the Residential, MU-CI, MU-CH, and Special Purpose Districts.

A. A landscape buffer area at least ten feet wide, containing at least one medium shade tree for every 35 linear feet of lot line and three large shrubs per 25 feet of lot line, with spacing designed to minimize sound, light, and noise impacts, and with living materials covering at least 75 percent of the ground surface of the required area.

B. In any case where the abutting property is a single-family detached dwelling, a two-family detached dwelling, or a row-house, and a fence separates the two properties, the required landscaping shall be installed on the side of the fence

facing the single-family detached dwelling, two-family detached dwelling, or townhouse.

(ii) Option 2: Available in the R-2, R-T, R-M, R-V, MU-NE, MU-NC, MU-CU, MU-FW, MU-FC, and I-1 districts.

A. An opaque wall, fence, or a vegetative screen with at least 50 percent opacity, six feet in height in areas behind the front façade of the primary building, and four feet in height forward of the front façade of the primary building, meeting the requirements of Section 375-4(F)(8) below.

B. If a wall or fence is used to meet this requirement, the fence shall be placed on the applicant's property, the side facing away from the applicant's property shall be at least as finished in appearance as the side facing the applicant's property; and three small shrubs per 25 linear feet of lot line shall be installed on the side of the fence facing the single-family detached dwelling, two-family detached dwelling, or townhouse,.

C. If a dense vegetative screen is proposed, it shall be at least four feet in height at the time of planting.

(6) PARKING LOT LANDSCAPING

All parking lots for four or more spaces shall comply with the following requirements, in addition to the requirements of Section 375-4(E) (Parking and Loading) above.

(a) LANDSCAPING

(i) An area equal to at least seven percent of the surface area occupied by vehicle parking spaces , inclusive of driving aisles and driveways necessary for access to and circulation among those spaces, shall be landscaped. Landscaping shall include a minimum of one tree island containing at least 80 square feet of land area, which shall include at least one medium shade tree or larger for every 20 parking spaces. Parking lot screening provided under Subsection (b) below shall not be used to meet this seven percent landscaping requirement.

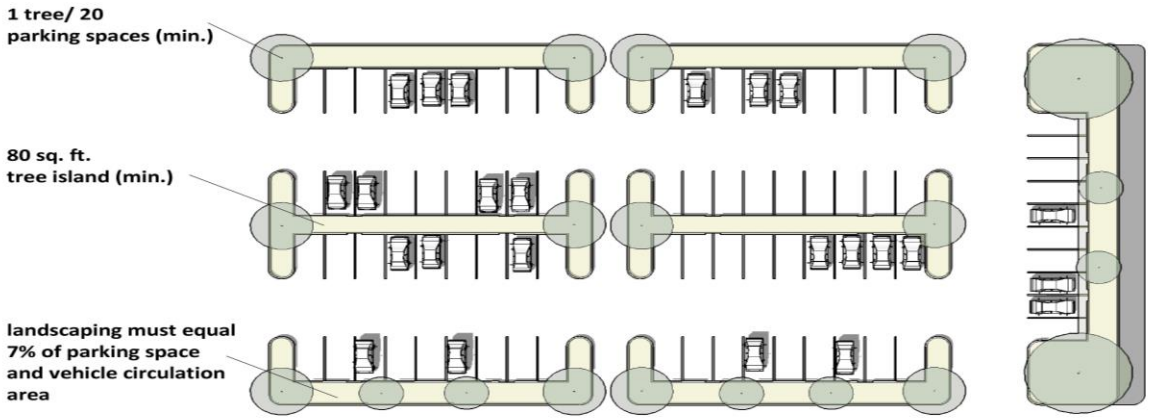


Figure 375-4-11

(ii) Any curbs installed at the edges of required perimeter and interior landscaped areas shall have openings that

allow drainage from the pavement to enter and percolate through the landscaped areas.

(iii) Mulch shall not be installed adjacent to any sidewalk, parking area, or driveway with less than a one foot border of grass or other permanent live groundcover to ensure mulch is not washed into the drainage system.

(b) SCREENING

(i) Where a parking area or lot for five or more vehicles is adjacent to a lot in a Residential district or a lot containing a principal Residential use, and the parking lot is not separated from the adjacent property by a principal or accessory structure, the parking area or lot shall be screened from the adjacent district or use by one of the two options in Subsection (5)(b) above, as applicable to the zoning district where the parking area or lot is located.

(ii) Where a parking area or lot (excluding driveways) in a Mixed-Use zoning district is located within 30 feet of a front lot line, and is not separated from the front lot line by a principal or accessory structure, the parking area or lot shall be screened from the street by one or both of the following, located within five feet of the front lot line:

A. A masonry wall (not including Concrete Masonry Unit blocks) between 30 and 36 inches in height; or

B. A decorative wrought-iron-style fence between 30 and 42 inches in height, with masonry piers that may extend to 48 inches in height. Masonry piers may not exceed 18 inches in width, viewed from the street, and may not occupy more than 20 percent of the length of the fence.

C. A continuous line of shrubs that achieves 80 percent opaque screening between 30 and 48 inches in height during summer months.

(iii) The location of required parking lot landscaping shall allow visibility from adjacent streets and from at least one pedestrian entry to a principal building on the lot to the maximum extent feasible.

(7) PRESERVATION OF EXISTING LANDSCAPING

(a) In the event that existing, non-invasive vegetation meets the intent of the screening or landscaping requirements, preserved existing vegetation will be credited towards the landscaping required by this Section 375-4(F). No credit shall be given for existing vegetation that is invasive or listed in the City of Albany Prohibited Plant List or any state list of prohibited or invasive plants.

(b) Existing vegetation used to meet the requirements of this Section 375-4(F) shall be protected from damage during construction by a fence erected around an area one foot beyond the dripline of the preserved vegetation, or by other means approved by the Chief Planning Official.

(c) Preservation of trees shall be given credit toward required landscaping as follows:

(i) Trees may be credited only one time towards one buffer, screen, or other landscape requirement.

(ii) Trees shall be located within the required landscape area to which they will be credited.

(iii) Tree credits shall be awarded in the quantities shown in Table 375-4-13 below based on Diameter at Breast Height (DBH) approximately four and a half feet from the ground.

Table 375-4-13: Tree Preservation Credits

Caliper of Preserved Tree (in.)	Reduction in Number of Required Trees
Over 12 in. DBH	3
Over 8 in. to 12 in. DBH	2
5 in. to 8 in. DBH	1

(8) WALLS AND FENCES

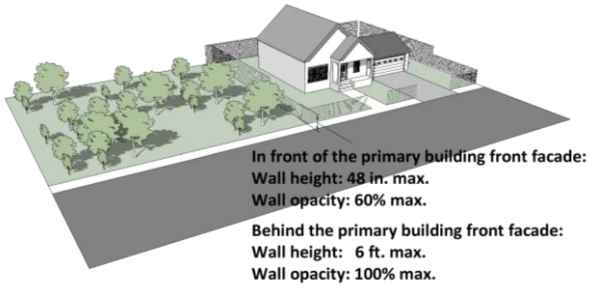
(a) APPLICABILITY

All walls and fences shall conform to the provisions of this Section 375-4(F)(8), except temporary fences and barricades around construction sites, which are governed by the International Building Code, as amended and adopted by the City, and fences required to be erected by any state, federal, or other agency, and that are governed by the standards of those agencies.

(b) GENERAL STANDARDS

(i) On any lot with an occupied principal structure in any zoning district except the I-1 and I-2 zoning districts:

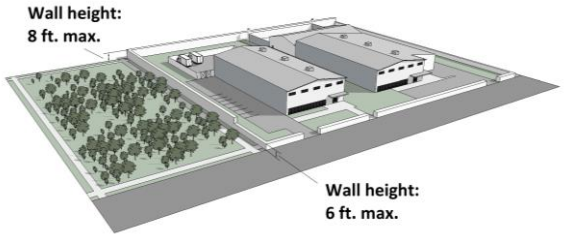
A. Walls and fences may be located in any front yard or exterior side yard facing a street provided they are no more than four feet in height and no more than 60 percent opaque, except as required to comply with screening requirements in Section 375-4(F)(5) and (6) above.



B. Walls and fences behind the front wall plane of a building, or side wall plane of the building on any side facing a street, shall not exceed six feet in height.

(ii) On any lot with an occupied principal structure in the I-1 and I-2 zoning districts, and on any vacant lot:

A. Walls and fences may be located in any front yard or exterior side yard facing a street provided they are no more than six feet in height.



B. Walls and fences behind the front wall plane of a building, or the side wall plane of a building on any street facing side, shall not exceed eight feet in height.

(iii) Notwithstanding Subsections (i) and (ii) above, fences constructed for the purposes of enclosing an Outdoor Recreation or Entertainment use may exceed the maximum height but shall not be located closer than ten feet from any lot line.

(iv) No minimum distance shall be required between a wall or fence and a lot line unless otherwise specified in this USDO.

(c) MATERIALS

(i) No wall or fence shall include barbed wire, broken glass, electrification, or other material or device intended to cause injury, except as otherwise stated in this Section 375-4(F) or required by state or federal law.

(ii) Chain link fencing is prohibited in any front yard area except in the I-1 Light Industrial or I-2 General Industrial zoning district.

(iii) Barbed (not razor) wire is permitted within the I-2 General Industrial district, or as required for public safety in and around Major Public Utility or Services uses.

(iv) No wall or fence shall be constructed of scrap or waste materials unless those materials have been recycled or reprocessed into building materials for sale to the public.

(v) No fence intended as a permanent structure shall be constructed of canvas, cloth, wire mesh, chicken wire, snow fencing, or any other similar material.

(vi) A fence designed to be structurally supported by posts, cross members, or rails on one side only shall be erected with the posts, cross members, or rails on the fence owner's side. The finished side of the fence (without supporting posts, cross-members, or rails) shall face adjacent properties or the public right-of-way.

(vii) All fences constructed of pressure-treated wood shall be painted or finished with a solid color or stain within one year of installation.

(9) SCREENING OF SERVICE AREAS AND EQUIPMENT

(a) LOADING, SERVICE, AND TRASH ENCLOSURE AREAS

(i) Where a loading, service, or trash enclosure area in a Mixed-Use zoning district is adjacent to a lot in a Residential district or a lot containing a principal Residential use, the loading or service area shall be screened from the adjacent district or residential use by:

A. An opaque wall, fence, architectural feature, or architectural extension of the building, eight feet in height, that relates to the overall design of the principal structure; or

B. A vegetated screen with at least 80 percent opacity and at least six feet in height at the time of planting.

(ii) Where a loading, service, or trash enclosure area in the I-1 or I-2 zoning district is adjacent to a lot in a Residential or Mixed-Use zoning district or a lot containing a principal Residential use or a non-industrial use, the loading or service area shall be screened from the adjacent district or residential use by:

A. An opaque wall or fence, architectural feature, or architectural extension of the building, eight feet in height, that relates to the overall design of the primary structure; or

B. A vegetated screen with at least 100 percent opacity and at least six feet in height at the time of planting.

(b) ROOF-MOUNTED MECHANICAL EQUIPMENT

(i) Roof-mounted mechanical equipment for any multi-family or nonresidential principal use, not including solar collectors or wind energy devices, shall be screened by a parapet wall or similar building feature that is an integral part of and compatible with the building's architectural design.

(ii) The parapet wall or similar screening feature shall be of sufficient height to screen the mechanical equipment from all sides when viewed from ground level from any public right-of-way adjacent to the property.

(c) GROUND-MOUNTED MECHANICAL EQUIPMENT

(i) In the Multi-Family, Mixed-Use, and I-1 Light Industrial Districts, ground-mounted mechanical equipment shall be screened from ground level view from adjacent properties and from all public rights-of-way adjacent to the property, by landscaping or by decorative wall or fence that incorporates at least one of the primary materials and colors of the nearest wall of the primary structure.

(ii) The wall, fence, architectural feature, or architectural extension of the building shall be of a height equal to or greater than the height of the mechanical equipment being screened. Such wall, fence, or architectural enclosure shall relate to the overall design of the primary structure.

(iii) If landscaping is used for screening, the screening material shall be designed to provide 80 percent opacity within one year of planting along the full required height and length of the screening buffer.

(10) VISION CLEARANCE AND PUBLIC SAFETY

On any corner lot, no wall, fence, structure, sign, berm, or plant growth that obstructs sight lines at elevations between three and six feet above the driving surface of the adjacent roadway shall be permitted in the area formed by measuring 20 feet along both curb lines where they intersect, and connecting the two points to form a triangle.

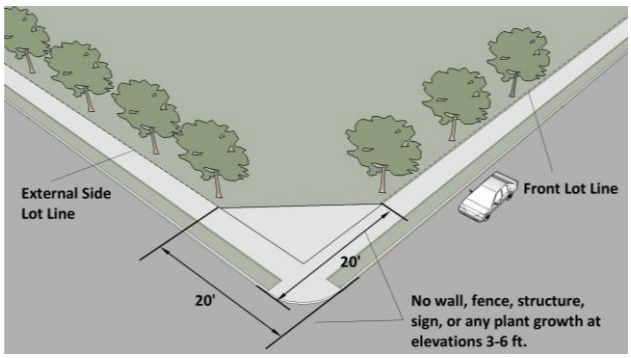


Figure 375-4-12

(11) STORMWATER MANAGEMENT

(a) All development and redevelopment in the City shall comply with the requirements of Article 14 of Chapter 133 (Stormwater Management and Erosion Control) of the City Code, and with Chapter 299 (Sewers) of the City Code.

(b) Each application for development or redevelopment shall be referred to the Department of Water and Water Supply for a determination of whether the existing sanitary and storm sewer infrastructure is adequate in size, location, connectivity, and construction quality to accommodate expected flows of both sanitary sewer and stormwater from the proposed facility. If the Albany Department of Water and Water Supply determines that the existing sanitary and/or storm sewer infrastructure is not adequate to accommodate expected sanitary and stormwater flows from the proposed development, the City may require that the applicant modify the proposed development and/or install or contribute a proportional share of the overall cost to the installation of required storm and sanitary sewer infrastructure before the proposed development is approved, and the applicant may be required to pay its proportionate share of those costs.

(c) All development and redevelopment within the City with a proposed area of disturbance greater than or equal to one-quarter (1/4) of an acre in size shall comply with the latest version of the New York State Department of Environmental Conservation Stormwater Management Design Manual that are written as applicable to properties with areas of disturbance of one (1) acre in size or larger.

(d) The maximum allowable design peak-flow stormwater discharge into the combined sewer system shall be limited to the calculated peak-flow discharge of the 10-year storm for un-development site conditions, as determined by a Professional Engineer, and to be reviewed and accepted by the Department of Water and Water Supply.

(G) BUILDING AND STREETSCAPE DESIGN

(1) PURPOSE

The purpose of the standards in this Section 375-4(G) is to ensure that new construction and significant expansions of existing buildings contribute to and improve the visual quality of the City, to encourage further investment in the City by reducing the risk of low quality development on adjacent parcels, and to create a more pedestrian-friendly street environment to encourage walking, energy conservation, and public health.

(2) APPLICABILITY

(a) The standards in this Section 375-4(G) shall apply to any construction, expansion, or renovation of a building that is visible from a public right-of-way.

(b) Notwithstanding Subsection (a) above, the standards in this Section 375-4(G) do not apply to:

(i) Any construction, expansion, or renovation of a principal structure in the HR-O district; and

(ii) Any construction, expansion, or renovation of a principal structure in the LC district; and

(c) These standards shall apply to all form-based districts unless addressed within the form-based standards in which case the form-based standards will prevail.

(3) COMPATIBILITY OF INFILL, ADDITIONS, AND EXPANSIONS

Infill construction, including principal structures, accessory structures, and building additions, shall be designed to be no greater than the average setbacks, heights, and building bulk of buildings with similar principal uses on the same block face and the facing block face to the maximum degree practicable. Furthermore, building characteristics such as roof pitches, gables, and the inclusion (or not) of porches, shutters, and other exterior elements shall conform to the residential buildings on the same block face and the facing block face to the maximum degree practicable, in order to preserve the character of the block face.

(4) BUILDING DESIGN STANDARDS

(a) BUILDING MATERIALS

Original materials shall be retained, maintained, repaired or uncovered wherever possible and to the maximum extent feasible. New buildings and alterations shall be composed of materials that complement adjacent facades and are compatible with the quality and appearance of traditional materials.

(b) WALL PLANE ARTICULATION

When the principal use of the building is not categorized as Industrial in Table 375-3-1: Permitted Use Table), each façade longer than 100 feet in length abutting a public street shall incorporate at least one of the following for each 100 feet of linear building frontage or part thereof:

(i) A change of building material and texture (not just color) at least ten feet in width; or

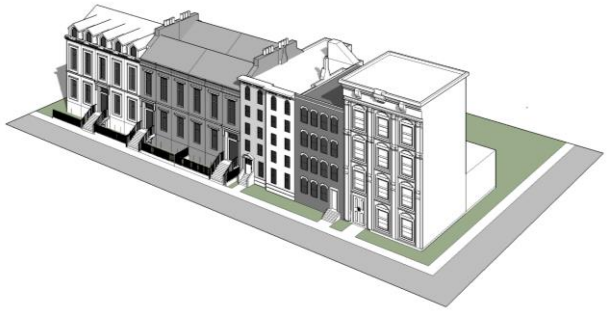
(ii) A recess into the wall plane at least six inches in depth and one foot in width; or

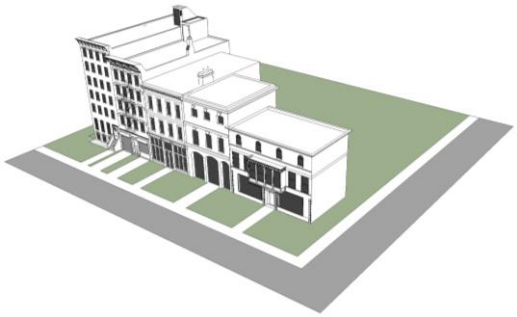
(iii) A projection at least six inches from the wall plane and extending at least one foot in width; or

(iv) A window extending at least ten linear feet, inset into the building wall plane at least four inches; or

(v) A pedestrian entrance to the building, together with surrounding architectural recesses, projections, or foundation plantings to emphasize the visibility of the entrance, which together extend at least ten linear feet.

le 375-4-14 Horizontal Articulation Methods

a. Change in material texture, patterning or color - A change in material texture, patterning or color at least ten feet in width.	

le 375-4-14 Horizontal Articulation Methods	
	b. Wall plane recess – A wall plane recess at least six inches in depth and one foot in width.
b. Wall plane projection - A projection at least six inches from the wall plane and extending at least one foot in width.	
	d. Window extension - A window extending at least ten linear feet, inset into the building wall plane at least four inches.
e. Pedestrian entrance - A pedestrian entrance to the building, together with surrounding architectural recesses, projections, or foundation plantings to emphasize the visibility of the entrance, which together extend at least ten linear feet.	

(c) ENTRIES

Each principal building shall have one or more operating pedestrian entry doors facing and visible from an adjacent public street. The location of the entry on the building façade shall be emphasized with surrounding architectural recesses, projections, or foundation plantings.

(d) PORCHES

(i) All porches shall be retained in their original style with appropriate supports, balusters, railings, and framed latticework to the maximum extent practicable.

(ii) If a structure's original style included a porch that is no longer present, such porch should be replaced and matched to the original style as noted in this Section 375-4(G)(4)(d) to the maximum extent practicable.

(iii) All pressure-treated lumber must be painted within six months of installation.

(e) TRANSPARENCY

(i) When the principal use of the ground floor frontage of a structure is categorized as Food and Beverage Service, Guest Accommodations, Office and Services, or Retail in Table 375-3-1: Permitted Use Table), a minimum of 50 percent in Mixed-Use districts and 20 percent in all other zone districts of each façade area that faces a public street shall be composed of transparent materials located between four and eight feet above street level. However, where such uses occupy a structure that was originally designed and constructed for a residential use, the existing window pattern shall be retained.

(ii) Only clear glass shall be used for display windows, but colored or decorative glass may be used to provide decorative detail in transom or minor accent windows.

(iii) For storefronts at the sidewalk level, storefront windowsills shall be located at a maximum of 30 inches above the finished grade at the building line.

(iv) Plexiglas and security gates shall be prohibited on any façade that faces a public street.

(f) ROOF SHAPE

(i) Original roof forms, profiles, and cornices shall be maintained to the maximum extent practicable

(ii) False mansard-style roofs shall be prohibited.

(iii) When a principal building has a roof surface with a slope of less than 15 percent from horizontal, and the primary use of the building is not categorized as Industrial in Table 375-3-1: Permitted Use Table), a parapet shall be constructed along each façade abutting a public street, and the design or height of the parapet shall include at least one change in setback or height of at least two feet along each 100 lineal feet of façade or part of a façade.

(g) FENESTRATION

(i) Original window and door arrangements shall be preserved to the maximum extent practicable.

(ii) Window replacements shall match, to the greatest extent practicable, existing window size, style, and configuration.

(iii) Window and doors shall not be boarded up or otherwise visibly blocked.

(h) SIDING AND TRIMWORK

(i) Original architectural trimwork detailing shall be preserved to the maximum extent practicable.

(ii) All new siding shall be installed in a manner that preserves original trimwork, such as window crowns, corner boards, dentils, modillions, brackets, ornamental cornices, or other design features of distinction.

(i) EXTERIOR ENTRANCE STAIRCASES

For primary buildings where the primary entrance is located above grade, a staircase may be constructed to reach the primary entrance, provided such staircase is made of wood and is painted or stained to match the predominant color of the front façade of the primary building. If the building is of masonry construction, a masonry-type material may be used provided that it matches the appearance and design of typical masonry stairs of that time period. Decorative metal railings shall be allowed if the Chief Planning Official determines that they are consistent with the historic or existing character of the surrounding area.

(j) LOADING DOCK AND DELIVERY AREAS

Loading dock doors and delivery areas shall be located on the elevation of primary buildings opposite the street frontage, unless:

(i) The loading dock and delivery area is located within the primary structure; or

(ii) The Chief Planning Official determines that such location is impracticable given the function and operating needs of the building.

(5) STREETSCAPE STANDARDS

(a) All development subject to the standards in this Section 375-4(G) shall:

(i) Install street frontage landscaping as required by Section 375-4(F)(4) (Street Trees and Lot Frontage Landscaping); and

(ii) Install sidewalks as required by Section 375-4(C) (Access, Circulation, and Connectivity); and

(iii) Install street lighting as required by the City's Administrative Manual or any replacement manual adopted by the City, as amended.

(b) Streetscapes shall be designed to comply with the provisions of the Albany Complete Streets Policy and Design Manual (2015) by organizing elements into a Frontage Zone, Pedestrian Zone, Buffer Zone, and Curb Zone. In addition, new development shall incorporate those Streetscape and Sidewalk Elements listed in the Albany Complete Streets Policy and Design Manual to the maximum extent practicable.

(c) The design of each streetscape zone shall comply with the dimensions shown in Table 375-4-14 to the maximum extent practicable.

Table 375-4-14: Design of Streetscapes and Sidewalks

Street Type	Frontage Zone (ft.)	Pedestrian Zone (ft.)	Buffer Zone (ft.)	Curb Zone (in.)	Total Width
Downtown	2	4 - 12	5 - 6	4 - 9	11' 4" – 20' 9"
Neighborhood Mixed-Use	2	4 - 12	5 - 6	4 - 9	11' 4" – 20' 9"
Neighborhood Residential	N/A	4 - 7	2 - 6	4 - 9	6' 4" – 13' 9"

Table 375-4-14: Design of Streetscapes and Sidewalks

Street Type	Frontage Zone (ft.)	Pedestrian Zone (ft.)	Buffer Zone (ft.)	Curb Zone (in.)	Total Width
Boulevard	N/A	4 - 7	2 - 6	4 - 9	6' 4" – 13' 9"
Community Mixed-Use	2	4 - 12	5 - 6	4 - 9	11' 4" – 20' 9"
Community Commercial	2	4 - 12	5 - 6	4 - 9	11' 4" – 20' 9"
Industrial	N/A	4 - 7	5 - 6	4 - 9	9' 4" – 13' 9"

(d) In the R-M, R-V, and Mixed-Use districts, each property with a street frontage of 50 linear feet or more shall install at least one bench, bicycle rack, planter, trash receptacle, or piece of public art per 50 feet of street frontage or part thereof, unless the Planning Board waives that requirement based on expected volumes of pedestrian use, site constraints, or potential maintenance issues. Any items placed in the public right-of-way shall require prior approval of the City to ensure that clear pedestrian passages and public health and safety are protected.

(e) In the R-M, R-V, and Mixed-Use districts, if any adjacent lot street frontage includes a tree lawn or planting area between the sidewalk and the curb, a tree lawn or planting area of the same depth from the curb shall be installed across the frontage of the property and shall be landscaped to comply with the standards in Section 375-4(G) (Landscaping, Screening, and Buffering).

(f) Sidewalk or outdoor cafes are permitted as shown in Section 375-3 (Use Regulations).

(H) OUTDOOR LIGHTING

(1) PURPOSE

The purpose of this Section 375-4(H) is to ensure that vehicle circulation areas, pedestrian circulation areas, parking areas, public gathering spaces, approaches to buildings, and other areas have adequate outdoor illumination to promote safety and walkability at night; to control the negative impacts associated with nuisance outdoor lighting, excessive lighting, dramatic contrasts between lit and unlit areas; to minimize objectionable light spillover onto adjacent properties; to promote energy efficiency and high-quality lighting with excellent color rendering; and to utilize lighting to improve the nighttime aesthetics of site, landscape, and architectural design.

(2) APPLICABILITY

(a) All exterior lighting constructed or installed after June 1, 2017 shall comply with the standards of this Section 375-4(H). This shall include but shall not be limited to new lighting and fixture/equipment replacement (but not lamp replacement), whether attached to structures, poles, the earth, or any other location.

(b) Lighting for special events, emergencies, construction, or holidays shall be exempt from these decorative lighting standards provided that the lighting is temporary and is discontinued within seven days of the completion of the project or the holiday for which the lighting was provided.

(c) These standards shall apply to all form-based districts unless addressed within the form-based standards, in which case the form-based standards will prevail.

(d) Lights such as street lights and traffic control devices installed on a public right-of-way by a governmental agency for public safety shall be exempt from these regulations.

(3) STANDARDS APPLICABLE TO ALL DEVELOPMENT

(a) GENERAL STANDARDS

(i) Lighting color and fixture types shall be consistent through the site and shall compliment the architecture of any structures and the landscape of the site.

(ii) Lighting fixtures should accomplish a dual purpose, such as architectural lighting that also provides security, or landscape lighting that also lights adjacent paths, if possible.

(iii) On-site driveways, internal circulation paths, and parking areas on commercial sites shall be lit with cutoff to full cutoff type lighting fixtures. Light levels (illuminance) shall meet minimum Illuminating Engineering Society of North America (IESNA) recommendations. Incandescent light sources of 100 watts or less or other light sources of 60 watts or less (gaseous discharge) that are located at least 150 feet from the lot line of a residential district are exempt from the cutoff requirements.

(iv) In the I-1 district, the maximum height of lighting fixtures for driveways and parking areas located at least 750 feet from Residential districts and residential uses is 25 feet. In the I-2 district, the maximum height of lighting fixtures for driveways and parking areas located at least 750 feet from Residential districts and residential uses is 40 feet. In all other locations, the maximum height of light fixtures for driveways and parking areas is 20 feet.

(v) Lighting fixtures installed in canopies or similar structures shall be flush-mounted or recessed above the lower edge of the canopy, and shall be equipped with flat or recessed lenses.

(vi) Internal sidewalks, walkways, and bicycle paths shall be lit with full cutoff to cutoff shielded lighting fixtures no more than 12 feet tall and providing consistent illumination of at least one footcandle on the walking surface.

(vii) Lighting sources shall have excellent color rendering, with a Color Rendering Index (CRI) of 80 or greater. Light sources of limited spectral emission and with a low CRI, such as low pressure sodium or mercury vapor lights, are prohibited.

(viii) Light trespass onto adjacent properties shall not exceed 0.1 footcandles at the lot line except where adjacent to walkways, driveways, public and private streets.

(ix) No light source (e.g. bulb or filament) shall be directly visible from a Residential zone district, except for decorative lighting.

(x) All exterior lighting fixtures shall produce at least 80 lumens per watt of energy consumed, as documented by manufacturer's specifications or the results of an independent testing laboratory.

(xi) All maximum and minimum lighting levels shall comply with the latest published recommendations of the Illuminating Engineering Society of North America (IESNA).

(b) ADDITIONAL STANDARDS FOR PARKING AREA LIGHTING

All parking lot lighting shall be turned off within one hour after the end of business closing and shall remain off until one hour before business opening. A maximum of 25 percent of the total luminaires used for parking lot illumination may remain in operation during this period to provide security, unless the Chief Planning Official determines that additional security lighting is needed due to the nature of the use or facility.

(c) ADDITIONAL STANDARDS FOR BUILDING LIGHTING

(i) Lights shall not be mounted above the parapet or eave on a pitched roof, except for motion-activated security lighting.

(ii) Except in the I-2 district, no "wall packs" or similar lights are permitted unless the fixture cutoff angle effectively eliminates any glare above 0.1 footcandle beyond the lot lines, except where adjacent to walkways, driveways, or public and private streets.

(iii) Decorative lighting is permitted to enhance the appearance of a building and/or landscaping, provided that all light is cast up against the building surface or downward onto a tree or other landscape feature and away from pedestrians or any adjacent Residential district, and does not cause distracting reflections on any storefront window or adjacent properties.

(iv) Decorative lighting shall not exceed 100 watts of incandescent illuminance or the equivalent.

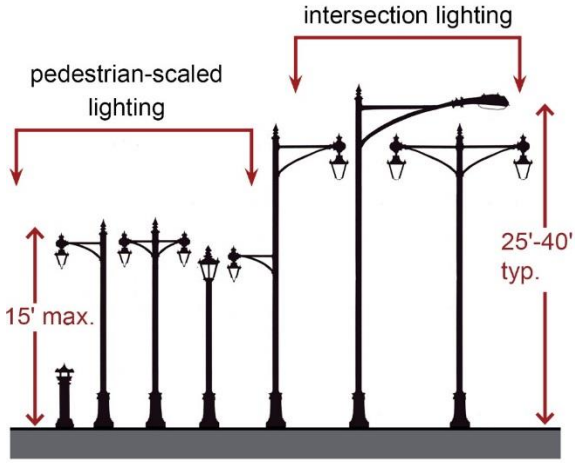
(4) ADDITIONAL STANDARDS APPLICABLE TO CERTAIN MIXED USE AREAS

(a) APPLICABILITY

The standards in this Section 375-4(H)(4) apply in the MU-FW, MU-FC, MU-FS, MU-FM, MU-NE, MU-NC, MU-CU and MU-DT zone districts.

(b) GENERAL REQUIREMENTS

(i) When a development or redevelopment project includes more than one acre of land and includes nonresidential uses, the property owner shall install pedestrian-scaled fixtures meeting the City's applicable technical construction standards on all streets fronting the property.



(ii) Intersection-scaled lighting may be used in addition to pedestrian-scaled lights where required by the City.

(iii) Street lights shall be aligned with street tree placement (generally between two and a half feet and four feet from the back of the curb). Placement of fixtures shall be coordinated with the organization of sidewalks, landscaping, street trees, building entries, curb cuts, and signage.

(iv) The height of light fixtures shall be kept low (generally not taller than 15 feet) to promote a pedestrian scale to the public realm and to minimize light spill to adjoining properties. Light fixtures shall be closely spaced (generally not more than 30 feet on center) to provide appropriate levels of illumination.

(v) Light poles may include armature that allows for the hanging of banners or other amenities (e.g., hanging flower baskets, artwork, etc.).

(vi) There shall be consistency of lighting fixtures within each individual MU-FW, MU-FC, MU-FS ,and MU-FM districts (although the style chosen for each district may differ) to create a unifying scheme of illumination that is appropriate to the scale of the street and the level of nighttime activity. Lamp styles shall not be mixed along any one block of a street.

(vii) To increase safety, help geographic orientation, and highlight the identity of an area, the following street elements are encouraged to be lit:

A. Edges: Edges of a park or plaza shall be lit to define and identify the space.

B. Architectural details: Lighting entrances, archways, cornices, columns, and so forth can call attention to the uniqueness of a building, or place. Lighting of building entrances also contributes to safety.

C. Focal points: Lighted sculptures, fountains, and towers in a neighborhood, especially those visible to pedestrians and vehicles, provide a form of wayfinding.

(I) SIGNS

(1) GENERAL PROVISIONS

(a) PURPOSE

The purpose of the regulations in this Section 375-4(I) is to promote and protect the public health, welfare and safety, by regulating existing and proposed outdoor signs of all types. More specifically, these regulations are intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty, reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, and curb the deterioration of the community's appearance and attractiveness.

(b) INTENT

It is the intent of the City to comply with all applicable laws, statutes, regulations, and federal and state court decisions regarding the regulation of signs, and not to engage in any form of content-based regulation of sign messages prohibited by federal or state constitutions, statutes, or court decisions.

(c) SUBSTITUTION

Noncommercial content may be substituted for other content on any sign permitted under this Section 375-4(I) or any legal nonconforming sign under this USDO.

(d) SEVERABILITY

If any decision, subsection, sentence, phrase or portion of this Section 375-4(I) is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion of these regulations shall be deemed separate and distinct, and holding shall not affect the validity or constitutionality of the remaining portions of this Section 375-4(I), which shall remain in full force and effect.

(2) APPLICABILITY

(a) This Section 375-4(I) shall apply to the erection or continuation of all signs located outside of, or located within but designed to be viewed from outside of, a structure, in all zone districts, unless specifically exempted by this USDO.

(b) In addition to the provisions of this Section 375-4(I), additional sign regulations listed in Sections 375-2 (Zoning Districts) or 375-3(C) (Use-Specific Standards), and the Manual on Uniform Traffic Control Devices (MUTCD) may apply. If there is a conflict between any sign regulation in Section 375-2(F) (Overlay Districts) and any other sign regulation, the provisions of Section 375-2(F) shall apply. In there is any other conflict between two or more sign regulations in this USDO, the stricter provision shall apply.

(c) Notwithstanding the provisions of Subsections (a) and (b) above, the provisions of this Section 375-4(I) shall not apply to any sign erected or required to be erected by any state or federal governmental agency, provided that the size, height, location, and type of sign comply with these provisions to the maximum degree practicable.

(d) Any sign legally erected before June 1, 2017 that is no longer in compliance with the standards in this Section 375-4(I) may be retained in use subject to the provisions of Section 375-5(E) (Pre-existing Development and Nonconformities).

(e) These standards shall apply to all form-based districts unless addressed within the form-based standards, in which case the form-based standards will prevail.

(3) STANDARDS APPLICABLE TO ALL SIGNS

(a) No sign or part of a sign shall be located on any property without the consent of the owner, holder, lessee, agent or trustee or other part controlling the use of such property.

(b) No sign may contain flashing, intermittent rotating or moving lights, except:

(i) Signs located along Central Avenue, between King Avenue and the City Line;

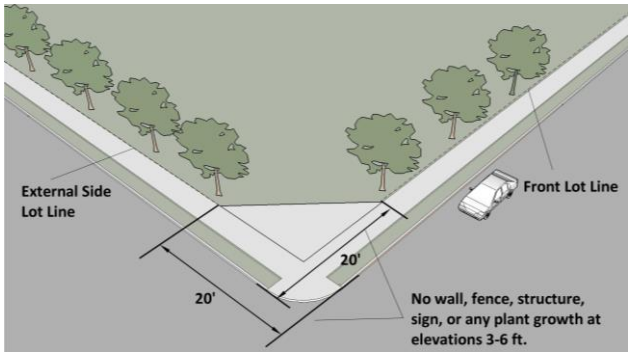
(ii) Signs located within the MU-CH zone district, subject to the limitations in Section 375-4(I)(5)(ii)(A)(3); and

(iii) Those signs permitted by Section 375-4(I)(5)(ii)(A)(3).

(c) Internally illuminated or backlit signs (except for neon tubing) shall be prohibited unless light passes only through sign copy. Any background shall remain opaque and light transmission shall be blocked;

(d) No sign shall be constructed that resembles any official marker erected by the City, the State of New York or any governmental agency or that by reason of positioning, shape or color would conflict with the proper functioning of any traffic sign or signal or would impair or cause confusion of vehicular or pedestrian traffic.

(e) On any corner lot, no sign that obstructs sight lines at elevations between three and six feet above the driving surface of the adjacent roadway shall be permitted in the area formed by measuring 20 feet along both curb lines where they intersect, and connecting the two points to form a triangle.



(f) No sign or sign support shall be placed upon the roof of any building.

(g) No signage shall contain any obscene wording or images.

(h) Any part of a sign extending over a public right-of-way shall require the approval of the City and shall have a minimum vertical clearance of eight feet above any sidewalk or walkway and a minimum vertical clearance of ten feet above any vehicle driving surface.

(i) Any part of a sign extending over a privately owned pedestrian traffic area shall require the approval of the owner of the property containing the pedestrian traffic area, and shall have a minimum clearance of eight feet above any sidewalk or walkway and a minimum vertical clearance of ten feet above any vehicle driving surface.

(j) All signage shall be constructed of durable material and maintained in good condition and repair, shall be securely anchored and constructed to prevent lateral movement that would cause wear on supporting connections, and shall be constructed to withstand expected wind loads appropriate to design and installation.

(k) All building mounted signs shall be placed and anchored to avoid or minimize damage to any historic surface or character-defining features of a building, and so that the character defining features of the building are not obscured.

(l) Notwithstanding any other provision of this Section 375-4(I), application for signs to be located on property in the HR-O district shall be referred by the Chief Planning Official or Historic Resources Commission for review and recommendation as to appropriateness with and conformity to such areas' aesthetic, historic and/or architectural integrity.

(4) Signs that May be Erected Without a Permit

The following signs may be erected and maintained on private property without a permit or fee, provided that such signs comply with all standards applicable to that type of sign.

(a) One non-illuminated sign or marker cut into the masonry surface of a building, not to exceed four square feet in area.

(b) Flags not exceeding 60 square feet in area and mounted not more than 50 feet above grade.

(c) Directional or warning signs for the convenience and safety of the general public not exceeding four square feet in area and mounted not more than six feet above grade.

(d) One non-illuminated sign attached to the front façade of any primary and accessory building, not exceeding one square foot in area and mounted not more than ten feet above grade.

(e) Window signs that do not exceed 15 percent of the area of any individual window surface in a Residential, Mixed-Use or Special Purpose zone district and that, collectively, do not cover more than 10 percent of the total window area by floor of the applicable structure (exclusive of any window signage or notices required under federal, state, or local law).

(f) Up to two temporary signs or banners. In the Residential zone districts, each sign or banner shall not exceed six square feet in area, and shall not be mounted more than six feet above grade. In Mixed-Use and Special Purpose zone districts, each sign or banner shall not exceed 20 square feet in area, signs shall not be mounted more than ten feet above grade, and banners shall not be mounted above the second story of the building. In all zone districts, the temporary signs shall be limited to a period of six consecutive months in each calendar year. All temporary signs that related to a specific event or activity shall be removed within seven days of the end of the event or activity to which they relate.

(g) "A-frame" or "sandwich-type" sidewalk signs in front of establishments in the Mixed-Use districts that are no taller than three feet, that are located so as to maintain at least a four-foot clear pedestrian passage area on any sidewalk, and that are removed from the sidewalk area when the adjacent establishment is closed for business.

(h) Seasonal holiday decorations and lighting.

(5) ON-PREMISES SIGNS THAT REQUIRE A SIGN PERMIT

(a) The following types of on-premises signs may be erected provided the applicant obtains a Sign Permit pursuant to Section 375-5(E)(5)(Sign Permit) and a building permit authorizing the erection of the sign:

(i) **TYPE, SIZE, AND LOCATIONS**

Table 375-4-5: Type, Size, and Locations of Signs

Type of Sign		Residential Districts	Mixed-Use Districts		Special Purpose Districts
Free-standing	Maximum Number Per Street Frontage	1 [1]	MU-NE MU-NC MU-CI MU-CU MU-CH MU-DT	1	1
			MU-FW MU-FC MU-FS MU-FM	0	
	Maximum Size	20 sq. ft.	MU-CU MU-CI MU-DT	64 sq. ft. [2]	64 sq. ft.
			MU-NC MU-NE	20 sq. ft.	

Table 375-4-5: Type, Size, and Locations of Signs

Type of Sign		Residential Districts	Mixed-Use Districts		Special Purpose Districts
	Maximum Height	5 ft.	MU-CU MU-CH MU-CI MU-DT	8 ft. [2]	6 ft.
			MU-NC MU-NE	5 ft.	
	Illumination	External only	Yes [3]		Yes [3]
Wall	Maximum Number Per Street Frontage	1 [1]	1[4[		1
	Maximum Size	20 sq. ft.	MU-CU MU-CH MU-CI MU-DT	32 sq. ft. [2] [4]	32 sq. ft.
			MU-NC MU-NE MU-FW MU-FC MU-FS MU-FM	24. sq. ft.	
	Illumination:	No	Yes [3]		Yes [3]
Projecting	Maximum Number Per Street Frontage	0	1 [5]		1 [5]
	Maximum Size	N/A	MU-CU MU-CH MU-CI MU-DT	32 sq. ft.	32 sq. ft.
			MU-NE MU-NC MU-FW MU-FC MU-FS MU-FM	24 sq. ft.	
	Illumination	N/A	Yes [3]		Yes [3]
Awning	Maximum Number Per Street Frontage	0	1 [5]		1 [5]
	Maximum Size of Sign Area	N/A	24 sq. ft.		24 sq. ft.
	Illumination:	N/A	Yes [3]		Yes [3]
Notes:					

Table 375-4-5: Type, Size, and Locations of Signs

Type of Sign		Residential Districts	Mixed-Use Districts	Special Purpose Districts

[1] Limited to multifamily dwellings and nonresidential uses.
[2] Properties in the MU-CH and MU-CI districts that have more than 200 linear feet of street frontage are allowed a maximum size of 100 sq. ft. for freestanding and wall sign, and a maximum height of 25 ft. for freestanding signs.
[3] Applicable signs are subject to the provisions of Section 375-4(I)(3).
[4] Additional signs permitted above top row of windows on buildings at least 9 stories in height may not extend across more than 50% of building façade width.
[5] Permitted only as alternative to a wall sign.

(ii) **STANDARDS FOR SPECIFIC TYPES OF SIGNS**

The following regulations shall apply to the specific types of signs listed below:

A. **FREESTANDING SIGNS**

1. All new freestanding signs erected after June 1, 2017 shall be monument, post-and-panel signs, or pole signs.
2. No freestanding sign shall be located less than five feet from the side lot line.
3. In the MU-NC, MU-Cu and Special Purpose districts, up to 20 percent of the permitted freestanding sign area may be electronically or manually changeable copy. In the MU-CH, district, up to 50 percent of the permitted freestanding sign area may be electronically or manually changeable copy, provided that any electronically changeable copy:
   a. Does not change images or symbols more than four times each minute, and each change of image takes place in less than one second; and
   b. The maximum illumination of the electronic copy is not more than 5,000 nits from dawn to dusk or 500 nits from dusk to dawn; and
   c. Is located perpendicular to a street fronting the property.

B. **WALL SIGNS**

1. Wall signs shall not extend beyond the ends or over the top of the wall to which the sign is attached.
2. Wall signs shall not project more than nine inches from the face of the building to which the sign is attached.

C. **PROJECTING SIGNS**

1. Projecting signs shall not have more than two faces unless located at the corner of a building on a corner lot.
2. The exterior edge of a projecting sign shall not extend more than five feet perpendicular from the building face or one-third the width of the sidewalk, whichever is less.

D. **AWNING SIGNS**

Awning sign messages shall be integrated into or painted on the awning. No sign shall project outward from an awning surface.

E. **OBSOLETE SIGNS**

Any on-premises sign that no longer advertises an existing business conducted or product sold on the premises upon which such sign is located shall be removed unless it is architecturally or historically significant, or is considered to be a character-defining feature of the building or district.

(6) SPECIAL ON-PREMISES SIGN PROGRAM

A property owner of a single property or multiple contiguous properties in the MU-CU, MU-CH, MU-CI, MU-DT, MU-FW, MU-FC, MU-FS, or MU-FM district may apply for a Special Sign Program Permit allowing for the permitted on-premises sign square footage on those properties to be allocated to different types of signs, or to signs in different locations on the property, than those shown in Section 375-4(I)(5). No Special Sign Program shall permit an increase in the total amount of signage permitted on the properties, an increase in the maximum height of permitted signs, or the erection of a sign that would cause an increase in glare onto any property that is not included in the application. However, where a District Plan is being proposed or has been approved, or where multiple primary buildings are located on a single lot, each building will be permitted signage as if it was on its own separate lot. Applications for Special Sign Program Permits shall be reviewed pursuant to Section 375-5(E)(4) (Minor Development Plan Review).

(7) OTHER DISPLAYS ON WALLS, STRUCTURES, OR SITES

(a) GENERAL PROVISIONS

This Section 375-4(I)(6) applies to all displays on walls or structures that are not exempt from the requirements of this Section 375-4(I), that exceed the height, size, duration, or another physical standard in this for an attached sign in the zoning district where the wall or structure is located, and that do not qualify for approval through a Special Sign Program under Section 375-4(I)(6).

(b) SPECIAL REVIEW REQUIRED

(i) Applications for approval of a display under this Section 375-4(I)(7) shall be reviewed by the Planning Board, unless the Planning Board has delegated such duties to the Albany Arts Commission, pursuant to the review criteria in Section 375-4(I)(7)(c) .

(ii) A decision on the application shall be made within 60 days after the City's receipt of a complete application.

(iii) An approved special display expands the number, size, and duration of signs otherwise permitted on the property. Any approval of a special display shall not affect the ability of the applicant to erect or maintain any other signs on the property permitted by this Section 375-4(I).

(c) REVIEW CRITERIA

The Planning Board may approve an application for a special display if it finds that the proposed display:

(i) Is a form of speech or expression protected by the First Amendment to the U.S. Constitution and/or the New York Constitution;

(ii) Will be created, constructed, erected, or displayed in a way that is visually distinct from other permitted signs on the property;

(iii) Serves to activate or enhance a public space or streetscape;

(iv) Does not exceed the dimensions of any surface upon which it is mounted;

(v) Will be treated to address vandalism and exposure to sun;

(vi) Will not require extensive or repeated maintenance, or the applicant has provided adequate assurance (including financial assurance) that maintenance and repairs will be timely performed;

(vii) Does not create a threat to public health or safety or to vehicular, bicycle, or pedestrian traffic safety or congestion;

(viii) Does not create noise, sound, light, reflection, glare, shading, flickering, vibration, or odor impacts on nearby properties; and

(ix) Does not impair the performance of required City functions on or around the property.

(8) OFF-PREMISES SIGNS THAT REQUIRE A PERMIT

The following types and numbers of off-premises signs may be erected in the following locations provided the applicant obtains a Sign Permit pursuant to Section 375-5(E)(5) (Sign Permit) and a building permit authorizing the erection of the sign.

(a) MAXIMUM TYPE, NUMBER AND PERMITTED LOCATIONS

(i) Unless otherwise limited by this USDO, off-premises monument, post-and-panel, and pole signs are permitted

(ii) There shall not be constructed, relocated or otherwise erected in the City any off-premises signs or sign faces that would result in more than 95 off-premises sign faces existing in the City.

(iii) Off-premises signage, including billboards, is prohibited except in the following designated areas:

A. The area along Interstate 90 bounded by its intersection with the City line to the east and its intersection with Central Avenue to the west, not to exceed a distance of 75 feet from the state right-of-way.

B. The area along Interstate 787 bounded on the south by a line drawn in a generally easterly direction from its intersection with Clinton Avenue and the City line north, not to exceed a distance of 75 feet from the state right-of-way.

C. The area along Interstate 787 bounded by its intersection with Route 9 to Madison Avenue on the north, not to exceed a distance of 75 feet from the state right-of-way.

(iv) Notwithstanding the provisions of Subsection (ii) above, no off-premises sign visible from a public right-of-way shall be constructed at any location having principal frontage on any street within 150 feet of any property that is used for public parks, schools and churches, having its principal frontage on the same street.

(b) MAXIMUM SIZE AND HEIGHT

(i) The maximum area for any one face of an off-premises sign shall be 700 square feet, inclusive of any border and trim but excluding the base or apron, supports and other structural members. Cutouts not exceeding 20 percent of the maximum areas may be added to each face of an off-premises sign.

(ii) The maximum height for any off-premises sign, exclusive of cutouts, shall be 60 feet. All measurements are to be taken from the grade level at which the sign is located.

(c) RELOCATION

Off-premises signage removed from the prohibited areas in accordance with the provisions of this Section 375-4(I)(6) may be relocated and reconstructed in the areas listed in Subsection (b) above.

(d) NONCONFORMING OFF-PREMISES SIGNS

(i) Off-premises signs in existence on the effective date, December 7, 1992, of this Section 375-4(I)(6) that have been legally erected and maintained, but that do not comply with the provisions this Section 375-4(I)(6), may continue to be maintained and repaired in place, so long as the size of the sign is not increased in terms of faces, length, height, or illumination levels.

(ii) Legally preexisting nonconforming signage that is removed for reasons other than being illegal pursuant to this Section 375-4(I)(6) may be removed and relocated in accordance with Subsection (c) above, provided that the style and type of the sign is not changed.

(J) OPERATING AND MAINTENANCE

(1) OPERATING STANDARDS

(a) All structures, uses, and activities in all zone districts shall be used or occupied to avoid creating any dangerous, injurious, noxious or otherwise objectionable conditions that would create adverse impacts on the residents, employees, or visitors on the property itself or on neighboring properties. Uses and activities that operate in violation of applicable state or federal statutes or this USDO are presumed to be a violation of this Section 375-4(J) and shall be subject to the penalties of Section 375-5(G)

Enforcement and Penalties). Property owner responsibilities under this section shall include, but shall not be limited to, the following standards:

(i) **ELECTROMAGNETIC RADIATION**

No use or activity shall create or operate an intentional source of electromagnetic radiation that does not comply with the then current regulations of the Federal Communications Commission regarding that type of electromagnetic radiation source.

(ii) **EMISSIONS**

No emission of toxic gases or other forms of air pollution may be permitted that can cause any damage to human or animal health, vegetation or other properties.

(iii) **GLARE**

In addition to complying with the requirements of Section 375-4(H) (Outdoor Lighting), all uses and activities shall be conducted so that direct or reflected glare, including glare from exterior lighting or high-temperature processes (such as combustion or welding), shall not be visible beyond the lot line.

(iv) **HAZARDOUS MATERIALS**

All uses and activities shall comply with state statutes and regulations regarding the use, storage, handling, and transportation of flammable liquids, liquefied petroleum, gases, explosives, hazardous materials, hazardous waters, toxic materials and solid wastes, as those terms are defined by applicable statutes, rules, regulations, or ordinances.

(v) **MATERIALS AND WASTE HANDLING**

All materials or wastes that might cause fumes or dust or that constitute a fire hazard or that may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed, impermeable trash containers that are screened in accordance with the requirements of this USDO. Lubrication and fuel substances shall be prevented from leaking and/or draining onto the ground or into the soil. All sewages and industrial wastes shall be treated and disposed of in compliance with all applicable state and federal government water quality standards.

(vi) **NOISE**

All activities shall comply with state law regarding permissible levels of noise and shall be conducted so as to avoid the creation of any noise that would create a public nuisance interfering with the use and enjoyment of adjacent properties. Any amplified sound equipment shall be mounted so as to direct sound inward from properties, rather than outward towards property boundaries. Amplified sounds at a level higher than 65 decibels (the level of normal conversation) shall not be allowed to cross lot lines unless an approval has been issued for that purpose in connection with a special event.

(vii) **NUCLEAR RADIATION**

No use or activity shall cause radiation at any lot line in violation of any applicable United States Nuclear Regulatory Commission regulations.

(viii) **ODORS**

All activities shall comply with all state regulations regarding permissible odors. No operation shall cause or allow the emission of any odorous air contaminant that is a nuisance, hazard or exceeds applicable federal or state regulations. If the Chief Planning Official determines that there is a risk of odors that may not comply with these

standards, detailed plans for the prevention of odors crossing lot lines may be required before the issuance of a development or building permit.

(ix) **SMOKE**

All activities shall comply with any applicable regulations concerning permissible smoke. No operation shall discharge contaminants into the atmosphere at levels that exceed threshold limits listed by the American Conference of Governmental Industrial Hygienists (ACGIH) in such quantity that the concentration of the contaminant at ground level at any point beyond the boundary of the property exceeds such threshold limits established by the ACGIH or by any state or federal law or regulation. Visible emissions of any kind at ground level past the lot line of the property on which the source of the emissions is located are prohibited.

(x) **VIBRATION**

No use or activity shall cause inherent or recurring generation of vibration perceptible without instruments at any point along the lot line. Temporary construction is excluded from this restriction.

(xi) **NUISANCE PROHIBITED**

All structures and land uses within the City shall be constructed, used, operated, and maintained in such a manner so as to be free of nuisances, as defined in state law.

(2) PROPERTY MAINTENANCE STANDARDS

(a) GENERAL

When the standards and procedures of this USDO or conditions attached to any permit, approval, or variance require that any building or site feature be constructed or installed, the property owner is responsible for maintaining those buildings or site features in good repair, and for replacing them if they are damaged or destroyed or, in the case of living materials, if they become diseased or die after installation. In addition, property owners shall be responsible for each of the additional maintenance, replacement, and operating standards set forth in this Section 375-4(J)(2).

(b) LANDSCAPE MAINTENANCE

(i) The trees, shrubs, fences, walls, walks, and other landscaping materials shown on approved plans are approved elements of the project. The property owner and any agents authorized to maintain the property shall be responsible for the continued maintenance of those items. Plant material that exhibits evidence of insect or pest disease or damage shall be treated to remove the disease, and dead plants shall be promptly removed and replaced within the next planting season. Heavy undergrowth and accumulations of plant growth noxious or detrimental to health or safety shall be eliminated. All landscaping will be subject to period inspection by the City to ensure compliance.

(ii) Any trees required to be installed by this USDO that are lost to damage or disease shall be replaced by the property owner within six months. Replacement trees must meet the size, quality, and installation standards in this USDO applicable to original installation of landscaping. Shrubbery or other plantings that die shall be replaced in-kind within six months.

(iii) Premises shall be kept landscaped, and lawns, hedges and bushes shall be kept trimmed and free from overgrown and unsightly vegetated materials where exposed to public view.

(iv) On any parcel in excess of one acre in size, no clear-cutting shall be permitted without Planning Board approval, in accordance with Section 375-5(E)(14) (Major Development Plan Review).

(c) Parking Area Maintenance

All surface parking areas and parking structures for more than five vehicles and off-street loading areas shall be screened and maintained in clean and neat condition. Potholes, surface damage, and other hazardous conditions shall be promptly repaired, and litter and debris shall be removed on a regular basis. Within 24 hours of the end of a snowfall the owner or operator of each parking lot shall remove snow and ice from the parking area and the sidewalks in front of such property.

(d) Sign Maintenance

(i) Any private sign that has become damaged, dilapidated, or dangerous shall immediately, or within the period mandated by the Chief Planning Official, be repaired or removed.

(ii) If the paint on any sign has checked, peeled, or flaked to the extent that the sign cannot be read in whole or in part, the sign shall be repainted or removed within 30 days after notice from the City.

(iii) Signs that contain messages that have become obsolete because of the termination of the use or business or product advertised, or for some other reason, shall have such message removed within 60 days after becoming obsolete, unless the sign is architecturally historically significant, or is considered to be a character-defining feature of the building or district, or has been approved as an historic sign by the Historic Resources Commission.

(iv) All non-operative or broken electrical signs shall be repaired or shall, with their supporting members, be removed, and any electrical infrastructure safely capped or disconnected at a breaker panel.

(e) Historic Resources Maintenance

(i) No owner or person with an interest in real property designated as an individual landmark or included with an historic district shall permit the property to fall into a serious state of disrepair. Maintenance shall be required, consistent with the Property Maintenance Code of New York State Uniform Fire Prevention and Building Code and all other applicable local regulations. Examples of prohibited disrepair include, but are not limited to:

A. Deteriorated or crumbling exterior plasters, mortar or façades;

B. Deteriorated or inadequate foundation;

C. Defective or deteriorated flooring or floor supports or any structural floor members of insufficient size to carry imposed loads with safety;

D. Deteriorated walls or other vertical structural supports that split, lean, list or buckle due to defective material or deterioration;

E. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration or are of insufficient size to carry imposed loads;

F. Ineffective or inadequate waterproofing of exterior walls, exterior chimneys, roofs, foundations or floors, including windows or doors, which may cause or tend to cause deterioration, decay or damage;

G. Defective or insufficient weather protection for roofs, foundations or exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering, which may cause or tend to cause deterioration, decay or damage;

H. Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety;

I. Any fault or defect in the building or structure which renders it not properly watertight or otherwise compromises the life and character of the building or structure.

(ii) Every person in charge of a structure or improvement on a designated landmark property or in a historic district shall keep in good repair:

A. All of the exterior portions of such structure or improvement; and

B. All interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such structure or improvement to deteriorate, decay or become damaged or otherwise to fall into a state of disrepair.

(iii) Every person in charge of a structure or improvement containing an interior landmark shall keep in good repair:

A. All portions of such interior landmark; and

B. All other portions of the structure or improvement that, if not so maintained, may cause or tend to cause the interior landmark contained in such structure or improvement to deteriorate, decay or become damaged or otherwise fall into a state of disrepair.

(iv) The provisions of this Section 375-4(J)(2)(e) shall be in addition to all other provisions of law requiring any such structure or improvement to be kept in good repair.

(f) LIGHTING MAINTENANCE

Burned out lamps, damaged equipment, and luminaries and lens that have become obscured shall be replaced as soon as possible.

(g) STORMWATER MANAGEMENT FACILITIES

All stormwater management facilities, including but not limited to retention, detention, or infiltration areas and facilities, shall be maintained in good condition so as to detain, retain, transmit, or allow the infiltration of water as originally designed.

(3) COMPLIANCE WITH OTHER PORTIONS OF THE CITY CODE

All uses and activities shall be conducted in compliance with the requirements of the following sections of the City Code:

(a) Chapter 151 (Commercial Standards) including but not limited to the provisions of Sections 151-13 (Appearance – General Requirements), 151-14 (Landscaping), 151-15 (Signs and Billboards), 151-16 (Windows), 151-17 (Storefronts), 151-18 (Protective Coating for Wood Surfaces), 151-19 (Awnings and Marquees), and 151-20 (Vacant Lots).

(b) Chapter 323 (Streets and Sidewalks), regarding display of wares in front of store, house or building;

(c) Chapter 197 (Fire Protection), regarding prohibition of outdoor fires;

(d) Chapter 299 (Sewers) regarding illegal depositing of waste and discharge of pollutants;

(e) Chapter 345 (Care of Trees and Shrubs) regarding vegetation on public spaces and development plan review for clear-cutting; and

(f) Chapter 363 (Vendors) regarding the sale of items in public areas or sidewalks.

Section 375-5 ADMINISTRATION AND ENFORCEMENT

(A) PURPOSE AND ORGANIZATION

This Section describes the procedures for review of all applications for land use and development activity in Albany.

(1) Section 375-5(B) (Procedure Summary Chart), lists the land use and development procedures in this USDO.

(2) Section 375-5(C) (Review and Decision–Making Bodies) describes the powers and duties, composition, and rules for each of the City boards or other entities that have advisory and/or decision-making roles and responsibilities under this USDO.

(3) Section 375-5(D) (General Procedures), describes standards and procedures that generally apply to most types of development applications.

(4) Section 375-5(E) (Specific Procedures), supplements the general procedures with additions and variations specific to each type of development application, such as review standards and special submittal or voting requirements.

(5) Section 375-5(F) (Pre-existing Development and Nonconformities), regulates nonconformities by generally allowing them to continue to exist, but ties the reestablishment, reconstruction, expansion, or other substantial alteration of nonconformities to reasonably practicable actions that make the nonconformities conforming or reduce the number or extent of nonconformities.

(6) Section 375-5(G) (Enforcement and Penalties), identifies what constitutes a violation of this USDO and sets forth procedures for enforcement, including remedies and penalties.

(B) PROCEDURE SUMMARY CHART

The following table lists the types of development applications authorized by this USDO. For each type of application, the table indicates what type of notice is required, what role City review authorities play in its review, and when a public hearing is required.

Table 375-5-1 Summary of Development Review Procedures
R = Review and Recommend D = Review and Decide (A) = Appeal [ ] = Public Hearing

Application Type		Section 375-5(E)	Notice			Review Authorities								
			Published	Mailed	Posted	Chief Planning Official	Chief Building Official	Commissioner of General Services	Stormwater Management Officer	City Engineer	Historic Resources Commission	Planning Board	Board of Zoning Appeals	Common Council
Administrative Decisions														
Building Permit		(1)					D						(A)	
Zoning Clearance		(2)				D	R						(A)	
Development Permit		(3)				D							(A)	
Minor Development Plan Review		(4)				D						(A)		
Sign Permit		(5)				R	D						(A)	
Floodplain Development Permit		(6)					D			R			(A)	
Lot Line Adjustment		(7)				D							(A)	
Lot Consolidation		(8)				D				R			(A)	
Revocable Sidewalk Privilege		(9)				D				R			(A)	
Curb Cut Permit		(9)				R				D			(A)	
Tree and Vegetation Permit		(11)						D					(A)	
Stormwater, Grading and Erosion Permit		(12)							D[1]	D[1]			(A)	
Minor Certificate of Appropriateness		(13)				D					(A)			
Discretionary Approvals														
Major Development Plan Review		(14)		YES	YES	R						D		
District Plan Approval		(15)		YES	YES	R						D		
Conditional Use Permit		(16)	YES	YES	YES	R						[D]		
Demolition Review		(17)			YES	R	R	R		R		D		
Subdivision of Land		(18)	YES		YES	D[2]				R		[D]		
Major Certificate of Appropriateness		(19)		YES	YES	R					[D]			
Design Review of Tall Buildings in MU-DT District		(20)		YES	YES	R						[D]		
Variance, Modification, or Hardship	Area	(21)	YES	YES	YES	R							[D]	
	Use	(21)	YES	YES	YES	R							[D]	
	Floodplain	(22)	YES			R							[D]	
	Historic Property	(23)		YES	YES	R					[D]			
Policy Decisions														
Amendments to Zoning Map or USDO Text		(24)	YES	YES [3]	YES [3]	R						[R]		[D]
Designation of Historic Landmarks		(25)	YES								R			[D]
Comprehensive Plan Amendment		(26)	YES			R						[R]		[D]

[1] May be decided by Stormwater Management Officer if no grading issues involved; or by City Engineer if no stormwater management issue involved; or by both officials jointly if both grading and stormwater management issues are involved.
[2] The Chief Planning Official may approve subdivisions containing no more than 4 lots.
[3] In the case of an application for an amendment to the USDO text, only published notice is required.

(C) REVIEW AND DECISION–MAKING BODIES

This section of the USDO identifies officers and bodies authorized to review, recommend, or make decisions regarding required applications, permits, and approvals under this USDO. Any reference to an officer or body includes any agents, employees, subordinates, or others to which the named individual or body has lawfully delegated power to take action.

(1) CITY STAFF

(a) GENERAL

(i) City staff shall have the review, recommendation, and decision-making authority and responsibilities shown in Table 375-5-1 Summary of Development Review Procedures).

(ii) City staff shall perform such other functions specified in Chapter 42 (Departments and Commissions), and other applicable Chapters of the Albany City Code.

(iii) City Staff may delegate any review or decision-making authority to any staff in their respective departments.

(b) CHIEF PLANNING OFFICIAL

(i) GENERAL

The Chief Planning Official is the City official responsible for administering provisions of this USDO.

(ii) POWERS AND DUTIES

The Chief Planning Official shall have the review, recommendation, and decision-making authority and responsibilities shown in Table 375-5-1 Summary of Development Review Procedures). In addition, the Chief Planning Official shall have the following additional powers and duties under this USDO:

A. To establish requirements for the contents and format of development applications reviewed under this USDO, and a schedule for the submittal and review of such applications;

B. To develop, adopt, and amend an Administrative Manual that may specify detailed submittal and procedural requirements for various development applications (e.g., application forms, application fees, checklists for plans and other documents to be submitted with applications, the content and scale/format of such plans and documents, schedules and timelines for application review steps), summarize development review procedures and standards to facilitate the use and understanding of them, and include detailed specifications and illustrations identifying how this USDO's standards for landscaping, public infrastructure, and other aspects of development may be met;

C. To maintain the official Zoning Map and related materials;

D. To serve as or assign professional staff to the Planning Board, Historic Resources Commission, and Board of Zoning Appeals;

E. To assist in enforcing this USDO in accordance with Section 375-5(G) (Enforcement and Penalties);

F. To interpret the provisions of this USDO in accordance with Section 375-3(A)(3), Section 375-6(A) (Definitions and Rules of Construction), and the intent and purpose statements included in this USDO;

G. To provide expertise and technical assistance to the City's review and decision-making bodies on request;

H. To maintain on file a record of all development applications reviewed under this USDO and make copies available on request through the City's Public Records request process;

I. To assist the Planning Board in preparing, maintaining, and amending the City's Comprehensive Plan;

J. To perform such other functions specified in Chapter 42 (Departments and Commissions), and other applicable Chapters of the Albany City Code.

(c) CHIEF BUILDING OFFICIAL

(i) GENERAL

The Chief Building Official, also known as the Director of the Department of Buildings and Regulatory Compliance, shall perform such functions specified in Chapter 42 (Departments and Commissions), and other applicable Chapters of the Albany City Code. The Chief Building Official is the City official responsible for reviewing building plans for compliance with the Building Code, including review and approval of Building Permits (Section 375-5(E)(1)) and a Certificate of Occupancy.

(ii) POWERS AND DUTIES

The Chief Building Official shall have those powers authorized by the Building Code, and the review, recommendation, decision-making authority and responsibilities shown in Table 375-5-1 (Summary of Development Review Procedures). In addition, the Chief Building Official shall have the following powers and duties under this USDO:

A. To make, adopt and enforce such reasonable rules and regulations, not inconsistent with local, state, federal law or ordinances of the Common Council;

B. To enter into and examine buildings, structures, lots and enclosures of every description to see that all laws of the state, ordinances of the City, and rules and regulations of the Department are enforced.

C. To issue permits for proposed projects that are found to comply with all applicable ordinances and codes, and to inspect approved projects during construction and upon completion to ensure compliance with this USDO and other applicable ordinance and codes.

D. To assist the Chief Planning Official in establishing requirements for the contents of development applications reviewed under this USDO, upon request;

E. To assist the Chief Planning Official in developing and maintaining an Administrative Manual, upon request;

F. To assist in enforcing this USDO in accordance with Section 375-5(F)(6)(e) (

G. Enforcement and Penalties);

H. To provide expertise and technical assistance to the City's review and decision-making bodies on request; and

I. To perform such other functions specified in Chapter 42 (Departments and Commissions), and other applicable Chapters of the Albany City Code.

(d) COMMISSIONER OF GENERAL SERVICES

The Commissioner of General Services shall perform such functions specified in Chapter 42 (Departments and Commissions), and other applicable Chapters of the Albany City Code.

(e) STORMWATER MANAGEMENT OFFICER

The Stormwater Management Officer is a term that refers to engineers in the Department of Water and Water Supply who perform duties in this USDO and other applicable Chapters of the Albany City Code related to stormwater management

(f) CITY ENGINEER

The City Engineer is a term that refers to engineers in the Department of General Services who perform those functions specified in Chapter 42 (Departments and Commissions), and other applicable Chapters of the Albany City Code. In general, the City Engineer shall assist the Commissioner of General Services in the design, construction, maintenance and repair of City streets, roads, sewers, pumping plants and drainage facilities, shall review and certify all work done under contract entered into by the Board of Contract and Supply, and supervise construction of public works projects.

(2) PLANNING BOARD

The Planning Board is that body established by Chapter 42, Part 13, of the Albany City Code, and shall perform those functions specified in Chapter 42 (Departments and Commissions), and other applicable Chapters of the Albany City Code.

(3) HISTORIC RESOURCES COMMISSION

The Historic Resources Commission is that body established by Chapter 42, Part 4, of the Albany City Code, and shall perform those functions specified in this USDO, Chapter 42 (Departments and Commissions), and other applicable Chapters of the Albany City Code.

(4) BOARD OF ZONING APPEALS

The Board of Zoning Appeals is that body established by Chapter 42, Part 35, of the Albany City Code, and shall perform those functions specified in Chapter 42 (Departments and Commissions), and other applicable Chapters of the Albany City Code.

(5) COMMON COUNCIL

The Common Council shall perform such functions with respect to this USDO shown in Table 375-5-1 and as specified in Chapter 42 (Departments and Commissions), and other applicable Chapters of the Albany City Code.

(D) GENERAL PROCEDURES

(1) PURPOSE

This section describes the common procedural steps and other rules that generally apply to development applications reviewed under this USDO, unless otherwise expressly exempted or alternative procedures are specified in Table 375-5-1 Summary of Development Review Procedures) or Section 375-5(E) (Specific Procedures).

(2) ENVIRONMENTAL QUALITY REVIEW

(a) Applications identified as needing to comply with the New York State Environmental Quality Review Act, also known as SEQRA, shall meet the requirements of Chapter 181 (Environmental Quality Review) of the Albany City Code.

(b) The City reserves the right to amend any decision or interpretation made regarding the need for Environmental Quality Review any time during the review process before a final decision is made on the application.

(c) If the Historic Resources Commission is not the lead agency for an environmental quality review process, the opinion of the Historic Resources Commission shall be sought, as an involved agency, for all applications involving a designated landmark or property in a designated historic district.

(3) LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)

An application for development, redevelopment, or a change of use within the boundaries of the City's adopted Local Waterfront Revitalization Plan (LWRP) area shall be required to comply with all standards, criteria, and procedures required by New York State law for LWRP areas, and by the provisions of the City's adopted LWRP.

(4) APPLICATION SUBMITTAL, ACCEPTANCE, REVISIONS, AND WITHDRAWAL

(a) AUTHORITY TO SUBMIT APPLICATIONS

(i) Unless expressly stated otherwise in this USDO, applications reviewed under this USDO shall be submitted by:

A. The owner, contract purchaser, or any other person having a recognized property interest in the land on which an application is proposed; or

B. A person authorized to submit the application on behalf of the owner, contract purchaser, or other person having a recognized property interest in the land, as evidenced by an original and notarized Owner and Interested Party Consent Form; or

C. The Planning Board or the Common Council of the City.

(ii) If there are multiple owners, contract purchasers, or other persons authorized to submit the application, all such persons shall sign and have notarized the Owner and Interested Party Consent Form. Only one party, the owner, contract purchaser, or other interested person, as noted in subsection (i) above, shall sign the application.

(b) APPLICATION CONTENT

Applications shall be submitted to the Chief Planning Official on forms for that type of application, which shall be included in an Administrative Manual or posted on the City's web site. The applicant bears the expense and burden of ensuring that an application contains sufficient information to demonstrate compliance with all applicable USDO standards.

(c) APPLICATION FEES

(i) Applications shall be accompanied by payment of the application fee required for that type of application. The amount of application fees shall be listed in the Administrative Manual and established in amounts sufficient to cover all costs typically associated with review of the type of application—including but not be limited to the costs of providing thorough professional review of the application and the costs of providing required public notice.

(ii) Where initial application fees are based on the estimated costs of review of the application by an outside consultant (e.g., review of an application's traffic impacts by a traffic consultant), and the Chief Planning Official determines that additional funds are needed to complete the consultant's review, the Chief Planning Official may require the payment of additional application fees to recover the City's actual costs in completing review.

(iii) An applicant may pay for expedited review to be performed by a third party consultant, per the Chief Planning Official's discretion and as described in the Administrative Manual.

(iv) Until such time as an Administrative Manual containing application fees is finalized, all existing fees charged by the City for review of applications related to this Chapter 375, as well as the application fees in Section 375-7 (Application Fees) shall apply.

(d) TRAFFIC STUDY

The Chief Planning Official may require a traffic study performed by a licensed professional engineer or traffic consultant, a Transportation Demand Management agreement, or both, when the application is for a project that meets one or more of the following conditions:

(i) Contains more than 20 dwelling units;

(ii) Contains more than 25,000 square feet of nonresidential gross floor area;

(iii) Is located on an arterial street;

(iv) Is located on a collector street that has experienced peak hour traffic congestion;

(v) The Chief Planning Official determines that the project may have an adverse impact on traffic congestion or traffic safety in the surrounding area.

(e) SUBMITTAL AND REVIEW SCHEDULE

The Chief Planning Official shall establish a submittal and review schedule for the development applications included in the Administrative Manual, which may be amended and updated as necessary to ensure efficient and thorough review.

(f) Determination of Completeness

(i) Completeness Review

Upon receiving a development application, the Chief Planning Official shall within 15 days determine whether the application is complete. A complete application is one that:

A. Contains all information and materials required by the Administrative Manual and this USDO for submittal of the particular development application in sufficient detail and clarity to evaluate the application for compliance with applicable review standards of this USDO;

B. Is in the form required by the Administrative Manual for submittal of the particular development application; and

C. Is accompanied by the fee established for the particular development application.

(ii) Application Incomplete

A. Upon determining that a development application is incomplete, the Chief Planning Official shall notify the applicant of the submittal deficiencies within 15 business days of receiving the application. The applicant may correct the deficiencies and resubmit the application for a determination of completeness until the Chief Planning Official determines the application is complete.

B. If the applicant fails to resubmit an application with any additional or corrected materials necessary to make the application complete within 45 calendar days after being notified of submittal deficiencies, the application shall be considered abandoned.

C. No development application shall be reviewed for compliance with this USDO or scheduled for a public hearing by any review or advisory body until it is determined to be complete.

(iii) Application Complete

Upon determining that the application is complete, the Chief Planning Official shall accept the application for review in accordance with the procedures and standards of this USDO.

(g) Application Revisions

(i) Revisions to Correct Compliance Deficiencies

An applicant may revise a development application after receiving notice of compliance deficiencies following staff review (see Section 375-5(D)(5)).

A. Minor Revisions

The review process shall continue so long as the revisions directly respond to specific staff comments and include only minor additions, deletions, or corrections and do not include significant substantive changes to the development proposed in the application, as determined by the Chief Planning Official.

B. Major Revisions

If the Chief Planning Official determines that revisions to correct compliance deficiencies do not constitute minor revisions as described above, a revised

application shall be submitted and reviewed as if it were a new application. The revised application submittal may be subject to additional fees required by the Administrative Manual.

(ii) **OTHER REVISIONS**

An applicant may revise a development application at any time upon requesting and receiving permission from an advisory or decision-making body after that body has reviewed, but not yet taken action on, the application. If the revisions are determined by the Chief Planning Official to be major, the revised application submittal shall be reviewed as if it were a new application and may be subject to additional fees required by the Administrative Manual.

(iii) **CHANGE IN APPLICANT**

If circumstances change so that the applicant of a pending application no longer meets the requirements of Section 375-5(D)(4)(a), any change in applicant or person authorized to submit the application shall be documented in an original and notarized Owner and Interested Party Consent Form delivered to the City before the application may advance to the next stage in the review process.

(h) WITHDRAWAL OF APPLICATION

(i) After an application has been accepted for review, the applicant may withdraw the application at any time by submitting a written letter of withdrawal to the Chief Planning Official.

(ii) If an application is withdrawn after required notice of any public hearing scheduled for the application, the application shall be subject to limitations on the subsequent submittal of similar applications pursuant to Section 375-5(D)(12)(e) (Limitation of Subsequent Similar Applications).

(iii) Application fees shall not be refunded for withdrawn applications.

(i) SUCCESSIVE APPLICATIONS

If an application pursuant to this USDO has been denied by the City, an application requesting the same or essentially the same approval shall not be accepted within 12 months after such denial.

(5) STAFF REVIEW AND ACTIONS

(a) REFERRAL OF APPLICATION TO REVIEW AGENCIES

At the Chief Planning Official's discretion, any application may be referred to those City departments, service providers, and review agencies potentially affected by the application for review and comment.

(b) STAFF REVIEW AND OPPORTUNITY FOR APPLICATION REVISION

(i) Prior to preparing a staff memorandum or making a decision on a development application, the Chief Planning Official shall review the application, relevant support material, and any comments from other agencies to which the application was referred.

(ii) If deficiencies in complying with the applicable requirements are identified, the Chief Planning Official shall notify the applicant within ten days of such deficiencies, and shall provide the applicant a reasonable opportunity to discuss the deficiencies and revise

the application to address them. The Chief Planning Official may also offer the applicant recommendations regarding possible improvements to the proposed development that are not required by this USDO, but shall clarify that compliance with such recommendations is not required for compliance with this USDO.

(iii) The applicant shall respond to the notice by either requesting that the application be processed as submitted or by submitting a revised application identifying changes after being notified of application deficiencies. If the applicant fails to so respond to the notice within 45 days, the application shall be considered withdrawn.

(iv) If the applicant submits a revised application, the Chief Planning Official shall refer the application to those City departments, service providers, and review agencies affected by the change for review, and shall review any such comments received. At the discretion of the Chief Planning Official, the applicant may be provided the opportunity to revise the application further to address remaining compliance deficiencies.

(c) Staff Review and Recommendation to Advisory or Decision-Making Body

(i) Staff Memorandum

If a development application is subject to staff review and a staff recommendation to the Planning Board, Board of Zoning Appeals, or Common Council (see Table 375-5-1 Summary of Development Review Procedures)), the Chief Planning Official shall prepare a written staff memorandum. The staff memorandum shall conclude whether the application complies with all applicable standards of this USDO and recommend one of the decisions authorized for that type of application, based on the review standards for that type of application in Section 375-5(E) (Specific Procedures). The staff memorandum may identify and recommend conditions of approval to correct compliance deficiencies and mitigate any adverse effects of the development proposal.

(ii) Distribution and Availability of Application and Staff Memorandum

Within a reasonable time period before the meeting at which a development application is scheduled for review by an advisory or decision-making body, the Chief Planning Official shall:

A. Schedule and verify any required public notice of the meeting in accordance with Section 375-5(D)(6) (Scheduling and Notice of Public Hearings);

B. Transmit the development application, related materials, and the staff memorandum to the appropriate advisory or decision-making body. Staff memorandums shall be made available to the public at least 24 hours before the meeting;

C. Transmit a copy of the staff memorandum to the applicant; and

D. Make the application, related materials, and the staff memorandum available for examination by the public during normal business hours, online, and make copies of such materials available at a reasonable cost.

(d) Staff Review and Final Decision

(i) Decision

A. If a development application is subject to staff review and a final decision by the Chief Planning Official (see Table 375-5-1 Summary of Development Review Procedures), the Chief Planning Official shall make a one of the decisions

authorized below based on the review standards for that type of application, as set forth in Section 375-5(E) (Specific Procedures).

B. The decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions; or
3. Deny the application.

C. The decision shall be in writing and shall clearly state reasoning for a denial or for conditions of approval.

(ii) **CONDITIONS OF APPROVAL**

Any conditions of approval shall be expressly set forth in the approval, shall be limited to conditions deemed necessary to ensure compliance with the requirements and particular standards of this USDO or other standards adopted by affected service providers or review agencies, and shall relate in type and scope to the anticipated impacts of the proposed development.

(e) STAFF APPROVAL OF ADMINISTRATIVE ADJUSTMENTS

The Chief Planning Official may approve an Administrative Adjustment within the limits established in Table 375-5-2 if the Chief Planning Official determines that the criteria in Subsection (ii) below have been met. An application for an Administrative Adjustment may only be submitted and reviewed concurrently with applications for other types of site development permits. Where the primary application is subject to review and approval by the Planning Board, the Chief Planning Official shall review and decide the Administrative Adjustment application before distributing the primary application to the Board and/or Council.

(i) **ALLOWABLE ADMINISTRATIVE ADJUSTMENTS**

Table 375-5-2 Allowable Administrative Adjustments

Standard	Maximum Allowable Adjustment
Lot Standards	
Minimum Lot Area	10%
Minimum Lot Width	10%
Minimum Lot Depth	10%
Maximum Impervious Lot Coverage	10%
Setbacks	
Minimum Front Setback	5%
Minimum Side Setback	15%
Minimum Rear Setback	15%
Building Standards	
Maximum Height, Principal Building	5%
Site Development and Design Standards	
Block Perimeter	10%

Table 375-5-2 Allowable Administrative Adjustments

Standard	Maximum Allowable Adjustment
Perimeter Buffer Width	10%
Perimeter Buffer Planting Rate	10%
Driveway Spacing	10%
Street Intersection Spacing	10%
Number of Vehicle Parking Spaces	10%
In MU-FW, MU-FC, MU-FS, and MU-FM zone districts	50%
In all other zone districts	10%
Number of Bicycle Parking Spaces	10%
Stacking Lane Distance for Parking Area Entrance Drives	10%
Walking Distance Between Shared, Off-site, or On-street Vehicle Parking Spaces and Primary Pedestrian Entrance of Uses Served	20%
Vegetation Size at Time of Planting	10%
Tree Island and Tree Island Area	10%
Street Tree Spacing	10%
Wall and Fence Height	1 ft.
Outdoor Lighting Standards	
Lighting Fixture Height	10%
Sign Standards	
Projecting Sign	10%
Sign Face Area or Dimensions	10%
Sign Height	10%
Sign Wall Coverage	10%
Encroachment into Required Setbacks	15%

(ii) REVIEW CRITERIA

An application for an Administrative Adjustment shall be approved only if the Chief Planning Official determines that the adjustment falls within the limitations in Table 375-5-2 and that:

A. The Administrative Adjustment is consistent with the character of development in the surrounding area.

B. Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practicable.

C. The Administrative Adjustment is of a technical nature (i.e., relief from a dimensional or design standard), and is either:

1. Required to compensate for some unusual aspect of the development site or the proposed development that is not shared by landowners generally;

2. Proposed to protect sensitive natural resources or save healthy existing trees; or
3. Required to eliminate a minor inadvertent failure to fully comply with a standard.

D. The Administrative Adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands, and will not pose a danger to the public health or safety.

(6) Scheduling and Notice of Public Hearings

(a) Scheduling

(i) If a development application is subject to a public hearing (see Table 375-5-1 Summary of Development Review Procedures), the Chief Planning Official shall ensure that the public hearing is scheduled for either a regular meeting of the body conducting the hearing or a meeting specially called for that purpose by such body.

(ii) The public hearing shall be scheduled for a date that allows sufficient time for preparation of a staff memorandum and provision of the required public notice.

(b) General Notice Requirements

The applicant shall provide the types of public notice of the public hearing shown in Table 375-5-1 Summary of Development Review Procedures) for that type of application, or shall reimburse the City for the cost of providing such notice. If an application is made by the City or is City-sponsored, the Chief Planning Official shall be responsible for providing public notice in accordance with Table 375-5-1.

(c) Notice Format and Content

(i) Published Notices

A. Published notices shall be required for those types of applications requiring a public hearing, as listed in Table 375-5-1 (Summary of Development Review Procedures).

B. Such notices shall be posted in a newspaper of general circulation at least ten days before all types of public hearings, except as stated in Subsection C below, and unless otherwise required by Sections 27-a, 27-b, 28-a, 29, and 32 of the General City Law.

C. Published notices shall be posted 14 days before a joint public hearing for an application for subdivision of lots and a related environmental impact statement, unless otherwise required by Section 32 of the General City Law.

D. The Chief Planning Official shall determine the format and content of notices to be published. Required published notices shall, at a minimum:

1. Identify the application type;
2. Describe the nature and scope of the proposed development or action;
3. Identify the location of land subject to the application;
4. Identify the date, time, and location of the hearing being noticed;
5. Identify where and when the application may be inspected by the public;

6. Advise that interested parties may appear and provide comment at the hearing, or written comment prior to the hearing;
7. Include the applicant's name;
8. Describe the nature of the relief sought; and
9. Comply with any other notice content requirements established by State law.

E. Published notices shall be published in a newspaper having general circulation in the City, and shall comply with the size and format requirements of the Chief Planning Official.

(ii) **MAILED NOTICES**

A. Mailed notices shall be required for those types of applications listed in Table 375-5-1 (Summary of Development Review Procedures).

B. Notices shall be mailed at least ten days before the public hearing to all owners of subject property, as shown on the most recent tax assessment roll, as well as owners of property located in whole or in part within 250 feet of the boundaries of the property that is the subject of the public hearing, as shown on the most recent tax assessment roll.

C. The Chief Planning Official shall determine the format and content of notices to be published. Required published notices shall, at a minimum include items 1-4 and 9 identified in Section 375-5(D)(6)(c)(i)D.

(iii) **ALBANY COUNTY PLANNING BOARD**

In accordance with General Municipal Law §239-m, notices of certain types of applications, as well as a full statement describing the proposed action, shall be mailed to the Albany County Planning Board if the boundary of the property that is the subject of the application is located within 500 feet of:

A. The boundary of any other city, village, or town;

B. The boundary of any existing or proposed county or state park or other recreation area;

C. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway;

D. The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines;

E. The existing of proposed boundary of any county- or state-owned land on which a public building or institution is situated; or

F. The boundary of a farm operation located in an agricultural district, as defined in Article 25-AA of the New York State Agriculture and Markets law, except that this subsection F shall not apply to Area Variances.

(iv) **NEIGHBORING MUNICIPALITIES**

In accordance with General Municipal Law §239-nn, the authorized body having jurisdiction shall give notice by mail or electronic transmission to an adjacent municipality at least ten days prior to a hearing being held relating to:

A. The issuance of a proposed Conditional Use Permit to property that is within 500 feet of an adjacent municipality;

B. The granting of a Use Variance to property that is within 500 feet of an adjacent municipality;

C. Development Plan Review pertaining to a property that is within 500 feet of an adjacent municipality; or

D. A Subdivision Review pertaining to property that is within 500 feet of an adjacent municipality.

(v) **POSTED NOTICES**

A. Posted notices shall be required for those types of applications listed in Table 375-5-1 (Summary of Development Review Procedures).

B. The Chief Planning Official shall determine the size, format, and content of notices to be posted.

C. The Chief Planning Official shall determine the format and content of notices to be published. Required published notices shall, at a minimum include items 1-6 and 9 identified in Section 375-5(D)(6)(c)(i)D.

D. Posted notices shall be posted along each of the application site's right-of-way frontages, in a location clearly visible to traffic along the right-of-way.

E. Posted notices shall be placed at least ten days prior to the hearing to be conducted on the application.

F. The applicant shall replace postings that are removed or damaged promptly after notice of such removal or damage.

G. The person required to post the notice shall ensure that the notice is maintained in place until after a final decision has been rendered on the subject application, and shall remove the posted notice within 14 days after the final decision on the application.

H. Required posted notices shall contain, at a minimum:

1. Identify the application type;
2. Identify the date, time, location, and type of the meeting being noticed;
3. Identify a telephone number, website, or email address from which more information may be obtained; and
4. Comply with any other notice content requirements established by State law.

(vi) **OTHER TYPES OF NOTICE**

An applicant shall provide, at the applicant's expense, any additional notice or forms of notice, such as web-based or other electronic notice, if the Chief Planning Official determines that type of additional notice is necessary to inform citizens or stakeholders who may be materially affected by the proposed development.

(vii) **AFFIDAVIT OF NOTICE**

The applicant shall sign an affidavit that proper notice has been provided. Such certificate shall be deemed conclusive in the absence of fraud.

(d) REQUESTS TO DEFER SCHEDULED AND NOTICED HEARINGS

An applicant may request that review of a development application scheduled for a hearing before the Planning Board, Board of Zoning Appeals, Historic Resources Commission or Common Council be deferred in accordance with the following provisions:

(i) Before any mailed notices of the hearing are mailed and final arrangements for any published notice of the hearing are made, a written request for deferral that states the reasons for deferral may be submitted to the Chief Planning Official, who may grant the request for good cause shown.

(ii) Any subsequent request for deferral shall be in writing, state the reasons for deferral, and be submitted directly to the body scheduled to review the application. The Planning Board, Board of Zoning Appeals (BZA), Historic Resources Commission (HRC) or Common Council shall consider such a request and may either grant the request for good cause shown or deny the request and proceed to hear public comments, review, and take action on the application. If the Planning Board, BZA, HRC, or Common Council grants the request for deferral, it shall concurrently identify the date and time of a subsequent meeting at which the application shall be scheduled for public comment and review.

(iii) The application may be subject to additional application fees to defray additional costs of processing the application or notifying the public and/or other interested parties.

(e) REGISTERING TO RECEIVE NOTICE

The Chief Planning Official may, as a courtesy, send electronic notice to any persons or organizations in the City, or to any governmental, public, or quasi-public organization regarding any matter related to this USDO that may affect the interests of that person or organization, or on any matter on which any such person or organization has requested notice. The failure of the Chief Planning Official to send such notice or the failure of any resident or property owner to receive such notice shall not affect the validity of any application approved pursuant to this USDO. Any organization or person wishing to receive notice of any public hearings related to the business of the Board of Zoning Appeals, the Planning Board, or the Historic Resources Commission shall register with the Planning Department. Registration may take up to 15 business days to process.

(7) PLANNING BOARD REVIEW AND ACTION

(a) HEARING, CONCEPT REVIEW, REGULAR REVIEW AND ACTION

If a development application is subject to a recommendation or a final decision by the Planning Board (see Table 375-5-1 Summary of Development Review Procedures), the Planning Board shall review and act on the application in accordance with the following procedures:

(i) The Planning Board's decision shall be one of the following:

A. Approve the application as submitted;

B. Approve the application subject to conditions;

C. Deny the application; or

D. Remand the application to the Chief Planning Official for further consideration or additional information.

(ii) If an applicant seeking Major Development Plan Approval (Section 375-5(E)(3)) elects to make an informal Concept Review presentation, it shall be held during a regularly scheduled Planning Board meeting or Planning Board workshop. The applicant shall provide at a minimum a conceptual plan for review and discussion. No formal action will be taken during a Concept Review meeting; however, the Board can ask questions, make comments, and suggestions.

(iii) The Planning Board shall consider the application, relevant supporting materials, staff memorandum, and any public comments made at the public hearing, and take one of the following actions:

A. If the application is subject to a recommendation by the Planning Board, the Board shall recommend a decision authorized for that type of application, based on the review standards for that type of the application in Section 375-5(E) (Specific Procedures).

B. If the application is subject to a final decision by the Planning Board, the Board shall render one of the decisions authorized for that type of application, based on the review standards applicable to that type of application in Section 375-5(E) (Specific Procedures).

(iv) The Board shall clearly state the factors considered in making its recommendation or decision, as well as the basis or rationale for the recommendation or decision.

(b) REVISION OF APPLICATION

(i) After the Planning Board has reviewed an application but has not yet taken action on it, the applicant may request an opportunity to revise the application. The Board may grant such a request on condition that revisions be limited to changes that directly respond to specific requests or suggestions made by staff or the Planning Board and shall constitute only minor additions, deletions, or corrections, and not significant substantive changes to the development proposed by the application.

(ii) Any other revisions to the application may be submitted, but the revised application shall be submitted to the Chief Planning Official and reviewed as if it were a new application. The revised application is subject to additional application fees to defray the additional processing costs as identified in the Administrative Manual.

(c) REFERRAL TO PLANNING BOARD

If Table 375-5-1 Summary of Development Review Procedures) authorizes the Chief Planning Official to make a decision and the Chief Planning Official determines that the application is unusually complex or raises potentially unique or serious impacts on the City or surrounding neighborhoods, the Chief Planning Official may, at his or her discretion, refer the decision to the Planning Board for decision pursuant to the same criteria that the Chief Planning Official would have been required to apply to that decision.

(8) HISTORIC RESOURCES COMMISSION REVIEW AND ACTION

(a) If a development application is subject to a recommendation or a final decision by the Historic Resources Commission (see Table 375-5-1 Summary of Development Review Procedures)), the Historic Resources Commission shall review and act on the application in compliance with Section 375-5(E)(19) (Major Certificate of Appropriateness) and Section 375-5(E)(25) (Designation of Historic Landmarks).

(b) No officer, department, or agency of the City whose approval is required by law for the construction or effectuation of a City-owned or City-sponsored project shall approve the plans, proposal or t application for any such project located in or adjacent to a Historic District or Landmark, unless such officer or agency has received from the Historic Resources Commission a report or a notification that the proposed action has been reviewed and approved as per these provisions.

(c) Any City agency that conducts historic preservation planning surveys or applies for or receives notification of state or federal historic designation of any property within the City shall provide copies of materials relating to these matters to the Historic Resources Commission for central filing.

(9) BOARD OF ZONING APPEALS REVIEW AND ACTION

If a development application is subject to a final decision by the BZA (see Table 375-5-1 Summary of Development Review Procedures)), the BZA shall review and act on the application in accordance with the following procedures:

(a) The BZA shall consider the application, relevant supporting materials, staff memorandum and any public comments made at the public hearing, and shall render a decision authorized for the type of development application based on the review standards applicable to that type of application set forth in Section 375-5(E) (Specific Procedures).

(b) The BZA's decision shall be one of the following:

(i) Approve the application;

(ii) Approve the application subject to conditions; or

(iii) Deny the application.

(iv) Remand the application to the Chief Planning Official for further consideration or additional information.

(c) The BZA shall clearly state the factors considered in making its recommendation or decision, as well as the basis or rationale for the recommendation or decision.

(d) The BZA shall render a decision within 62 days of the final hearing on an application.

(10) COMMON COUNCIL REVIEW AND ACTION

If an application is subject to a final decision by the Common Council (see Table 375-5-1 Summary of Development Review Procedures)), the Common Council shall review and act on the application in accordance with the following procedures:

(a) The Common Council shall consider the application, relevant supporting materials, staff memorandum, recommendation from the Planning Board (where applicable) and any

comments made at a public hearing, and shall render a decision authorized for the type of development application based on the review standards applicable to that type of application, as set forth in Section 375-5(E) (Specific Procedures).

(b) The Common Council's decision shall be one of the following:

(i) Approve the application as submitted;

(ii) Approve the application subject to conditions;

(iii) Deny the application; or

(iv) Remand the application to the Chief Planning Official or to a lower review body for further consideration or additional information.

(c) The Common Council shall clearly state the factors considered in making its decision, as well as the basis or rationale for the decision.

(d) The Common Council shall take action as promptly as possible in consideration of the interests of the applicant, affected parties, and citizens of the City.

(e) The action of the Common Council will be filed with the City Clerk with five days after the decision where required by New York State General City Law.

(11) CONDITIONS OF APPROVAL

(a) As an alternative to denying an application, the Chief Planning Official and Chief Building Official are authorized to approve applications with conditions necessary to bring them into compliance with the requirements of this USDO and the adopted standards of any affected service providers or review agencies.

(b) As an alternative to denying an application, the Planning Board, Board of Zoning Appeals (BZA), Historic Resources Commission (HRC), and Common Council are authorized to recommend or impose conditions on approvals that it determines are necessary, including but not limited to durational limits, hours of operation, and provisions for periodic review, to:

(i) Bring the application into compliance with the requirements of this USDO (including but not limited to provisions regarding permitted hours of operation), the adopted standards of any affected service providers or review agencies, and the purposes of the zone district where the property is located;

(ii) Prevent, mitigate, or minimize adverse effects upon adjacent properties, surrounding areas or public facilities and services; or

(iii) Ensure that the proposed use, and its operation, is conducted in a manner compatible with the surrounding neighborhood and will not constitute a threat to the public health, safety, welfare, or convenience.

(c) All conditions imposed on approved applications shall be reasonably related to the anticipated impacts of the proposed development or land use and to the purposes of this USDO.

(d) In the case of decisions made by Planning Board, BZA, or Common Council, where mitigation of the impacts of a proposed plan or development requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants, any condition imposed shall be

roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.

(e) Any conditions on approved applications shall be listed in or attached to the approval document, and violation of any approved condition shall be a violation of this USDO.

(12) POST-DECISION ACTIONS AND LIMITATIONS

(a) NOTICE OF DECISION

(i) Within ten calendar days after a final decision on a development application, the Chief Planning Official shall provide a written copy of the decision via personal delivery, electronic mail, or first-class mail to the applicant and make a copy of the decision available to the public online and in the Department of Development and Planning during normal business hours.

(ii) If the review involves a public hearing, the Chief Planning Official shall, within ten days after a final decision on the application, also provide a written copy of the decision via personal delivery, electronic mail, or first-class mail to the owner(s) of application site, and any person who has submitted a written request for a copy of the decision before its effective date.

(b) APPEAL

(i) DECISIONS OF THE CHIEF PLANNING OFFICIAL

A. A party aggrieved or adversely affected by any decision of the Chief Planning Official may seek review of the decision by the Board of Zoning Appeals.

B. Any party wishing to appeal must do so within 30 days from the date of the denial or approval, or issuance of a notice of violation.

C. The Board of Zoning Appeals shall decide each appeal applying the same criteria applied by the Chief Planning Official or Chief Building Official in making its decision.

D. The Board of Zoning Appeals may affirm, reverse, or modify the decision being appealed to bring it into conformance with the USDO criteria applicable to approval of that type of application.

(ii) DECISIONS OF THE ADMINISTRATIVE BODIES OR COMMON COUNCIL

Any party or parties that are individually or jointly or severally aggrieved or adversely affected by any decision of the Board of Zoning Appeals, the Planning Board, the Historic Resources Commission, or the Common Council may seek review of the decision in the courts in accordance with applicable State law, provided that the appeal shall be filed with the clerk of a court with jurisdiction in accordance with State law within 30 days after the filing of the decision in the office of the City Clerk.

(c) EFFECT AND DURATION OF APPROVAL

(i) AUTHORIZED ACTIVITY

A. Approval of any development application, variance, or appeal in accordance with this USDO authorizes only the particular use, plan, or other specific activity approved, and not any other development requiring separate application.

B. If one development permit or approval is a prerequisite to another permit or approval (e.g., variance approval prior to a development plan approval), development may not take place until all required permits and approvals are obtained. Approval of one application does not necessarily guarantee approval of any subsequent application.

C. Concurrent review of applications shall be at the Chief Planning Official's discretion, based on the degree to which issues to be addressed in various required approvals are interrelated, or the size and complexity of the project.

(ii) **APPROVALS RUN WITH THE LAND**

Unless limited by a condition attached to an approval under this USDO, or unless the approval expires as described in Section 375-5(E) (Specific Approval), an approval or permit granted under this USDO -- including any approved plans and documents and conditions of approval -- shall run with the land, shall be binding on the landowners and their successors and assigns, and shall not be affected by a change in ownership. All later decisions, determinations, and interpretation by City staff shall be consistent with the approval granted.

(iii) **EXPIRATION OF APPROVAL**

A. **GENERAL**

1. A development application approval shall be valid as authorization for the approved activity for one year, unless it expires in accordance with a different expiration time period provided in Section 375-5(E) (Specific Procedures), for that type of application.

2. A change in ownership of the land shall not affect the established expiration time period of an approval.

B. **EXTENSION OF APPROVAL TIME PERIOD**

Except as otherwise provided in Section 375-5(E) (Specific Procedures), for the particular type of application, the Chief Planning Official may grant extensions of the valid approval time period for the lesser of the original time period or one year, on receiving a written request for extension before the expiration date and on a showing of good cause. Any further extensions shall be subject to approval by the authority that approved the development application, on submittal of a written request to the Chief Planning Official before the current expiration date and a showing of good cause.

(d) **AMENDMENT OF APPROVAL**

Unless otherwise provided in Section 375-5(E) (Specific Procedures), for the particular type of application, any modifications of approved plans or conditions of approval shall be submitted and reviewed in accordance with the full procedure and fee requirements applicable to the particular type of application.

(e) **LIMITATION OF SUBSEQUENT SIMILAR APPLICATIONS**

(i) **PRIOR APPLICATION WITHDRAWAL**

If an application requiring a public hearing is withdrawn after provision of or final arrangement for required notice of the public hearing (see Section 375-5(D)(4)(h)

(Withdrawal of Application)), no application proposing the same or similar development on all or part of the same land shall be submitted within six months after the date of the withdrawal.

(ii) **PRIOR APPLICATION DENIAL**

If an application requiring a public hearing is denied, no application proposing the same or similar development on all or part of the same land shall be submitted within one year after the date of the denial

(13) CONSTRUCTION OF IMPROVEMENTS

(a) All streets, sidewalks, streetscapes, utilities, and drainage facilities required by this USDO shall be installed by the developer, at the developer's expense, unless the City enters into an agreement to pay or reimburse some of the costs in a manner consistent with state law.

(b) Each required improvement shall meet the standards and specifications, and shall be reviewed, tested, and accepted by the City pursuant to standards and procedures adopted by the City department responsible for design or maintenance of that type of improvement.

(c) Each required improvement shall be completed and accepted by the City before the City approves a Final Subdivision Plat or issues a Certificate of Occupancy pursuant to an approved Minor or Major Development Plan, or if not completed, the applicant shall:

(i) Provide a construction performance bond sufficient to cover 100 percent of the cost of any uncompleted construction as estimated by the Board pursuant to Section 33 of the General City Law, or

(ii) Agree in writing that no Certificate of Occupancy for any building in the subdivision shall be issued until all required improvements needed to provide service to that building and to protect the public health, and safety have been completed and accepted by the City, and that agreement is noted on the Final Subdivision Plat; and

(iii) Regardless of whether the applicant satisfies subsection (c)(i) or (c)(ii) above, the applicant shall deposit in an escrow account funds adequate to pay for third party site inspection of all public infrastructure improvements following their completion and prior to acceptance by the City. The amount of the required deposit shall be determined by the Planning Board during Subdivision or Development Plan review.

(d) If the City requires the provision of a construction performance bond pursuant to Subsection (c)(i) above, the City may release a portion of the performance bond proportionate to amount of required improvement construction work completed and accepted by the City, but no such release shall occur until at least one year after the improvements have been accepted by the City.

(14) TIME PERIODS FOR CITY PERFORMANCE

Unless otherwise stated in this USDO, when this USDO states a time during which the City shall make a decision or take an action, such time periods are provided for convenience only. The failure of the City to make a decision or take an action within a time period stated in this USDO:

(a) Does not result in a constructive approval or denial by the City; and

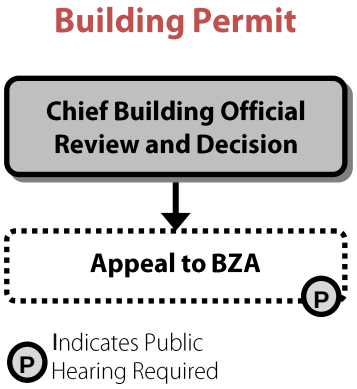
(b) Is not an appealable action related to any application or decision under this USDO.

(E) SPECIFIC PROCEDURES

This Section lists the different types of development applications that may be required in order to develop or redevelop land or buildings in the City, or to conduct a specific use or activity on land or buildings in the City, as well as the procedural steps, decision-makers, and approval criteria for each type of application. These provisions supplement – but do not replace – the General Procedures described in Section 375-5(D) above. On any topic not addressed in this Section 375-5(E), the provisions of Section 375-5(D) will continue to apply. Where conflict occurs between the provisions of this Section 375-5(E) and those of Section 375-5(D) as they relate to a specific type of application, the provisions of this Section shall apply.

(1) BUILDING PERMIT

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.



(a) APPLICABILITY

No person shall construct, alter, add to, or convert any structure or part of a structure without a valid Building Permit issued by the Chief Building Official.

(b) PROCEDURE

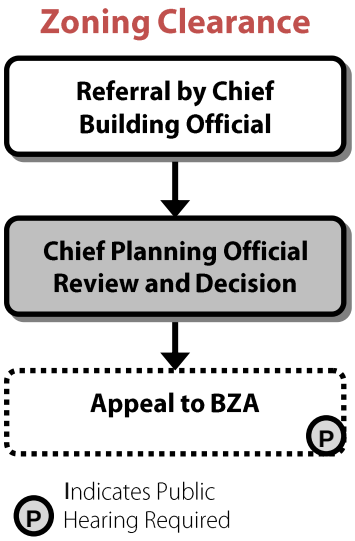
The Chief Building Official shall review the application and make a decision on the Building Permit.

(c) REVIEW CRITERIA

An application for a Building Permit shall be approved only if the Chief Building Official determines that it is consistent with the adopted Building Code, any provisions of this USDO, and the Albany City Code.

(2) ZONING CLEARANCE

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.



(a) APPLICABILITY

The Chief Building Official may require that an application receive a Zoning Clearance from the Chief Planning Official before further processing of the application. When such a request has been made, no person shall construct, alter, add to, or convert any structure or part of a structure or

change the use of any land or property without a valid Zoning Clearance issued by the Chief Planning Official. The zoning clearance process can also be used to confirm that a lot, structure, or use is a valid nonconforming lot, structure, or use under this USDO.

(b) PROCEDURE

(i) When the application of this USDO to an application or a property is unclear to the Chief Building Officer, the Chief Building Official may refer the application to the Chief Planning Officer.

(ii) The Chief Planning Official shall review the application and make a decision on the Zoning Clearance.

(c) REVIEW CRITERIA

An application for a Zoning Clearance shall be approved only if the Chief Planning Official determines that it is consistent with the provisions of this USDO and the Albany City Code.

(3) DEVELOPMENT PERMIT

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) APPLICABILITY

An applicant may request a Development Permit, which is a formal written statement by the City detailing all permits and approvals required for certain activity within the City.

(b) PROCEDURE

The Chief Planning Official shall review the application and make a decision on the Development Permit, within 45 days.

(4) MINOR DEVELOPMENT PLAN REVIEW

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) APPLICABILITY

The Minor Development Plan procedures and standards in this Section 375-5(E)(4) apply to the review of any development plan associated with the following:

(i) All new civic and institutional, commercial, and industrial development with less than 10,000 square feet of gross floor area.

(ii) All new residential development that contains four or fewer dwelling units within a single lot or parcel.

(iii) All expansions of existing multi-family, nonresidential, mixed-use and special purpose properties which increase the ground floor area by between 1,000 and 10,000 square feet or gross floor area.

(iv) All conversions of an existing nonresidential structure to a residential use containing between five and 19 dwelling units.

(v) All new surface parking lots having fewer than 10 parking spaces or expansion of existing parking areas that would add between five and nine parking spaces.

(vi) Any change of use in the MU-CU or MU-CH, districts on a lot containing between 10,000 and 20,000 square feet of lot area.

(vii) Any change of use in the MU-NE or MU-NC district on a lot containing between 5,000 and 10,000 square feet of lot area.

(viii) Any expansion or substantial renovation of a use in the Vehicles and Equipment use category not subject to a Major Development Plan Review.

(ix) Demolition of accessory structures containing less than 500 square feet of gross floor area, excepting the following:

A. Designated historic properties subject to review by the Historic Resources Commission.

(x) Demolition of principal structures, limited to the following:

A. Any principal structure located within the I-2 zoning district and containing less than 20,000 square feet of gross floor area.

B. Partial demolitions involving less than 25 percent of the non-street facing portions of the principal structure.

(xi) Any request for a Special Sign Program pursuant to Section 375-5(E)(4).

(b) PROCEDURE

(i) The Chief Planning Official shall review the application and make a decision on the Minor Development Plan. However, if the Chief Planning Official determines that the application is unusually large or complex or may create significant adverse impacts on the surrounding area, the Chief Planning Official may refer the application for consideration and decision by the Planning Board pursuant to Section 375-5(E)(14) (Major Development Plan Review).

(ii) Minor Development Plan approval authorizes submittal of any other development application(s) that may be required before construction or use of the development authorized by the Minor Development Plan.

(iii) Approval of a Minor Development Plan shall automatically expire if a building permit has not been issued within one year of approval.

(c) REVIEW CRITERIA

An application for Minor Development Plan shall be approved only if the Chief Planning Official determines that the proposed development:

(i) Will not create significant adverse impacts on the surrounding neighborhood, or any significant adverse impacts will be limited to a short period of time;

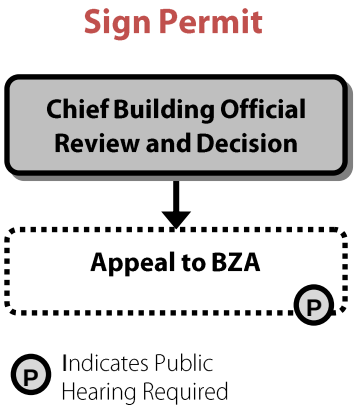
(ii) Will not create risks to public health or safety;

(iii) Is consistent with the Comprehensive Plan; and

(iv) Is consistent with any provisions of this USDO and the Albany City Code.

(5) Sign Permit

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.



(a) Applicability

(i) General

No person shall construct or alter any sign or part of a sign without a valid Sign Permit issued by the Chief Building Official.

(ii) Exemptions

A Sign Permit is not required for those signs listed in Section 375-4(I)(4) (Signs that May be Erected Without a Permit).

(b) Procedure

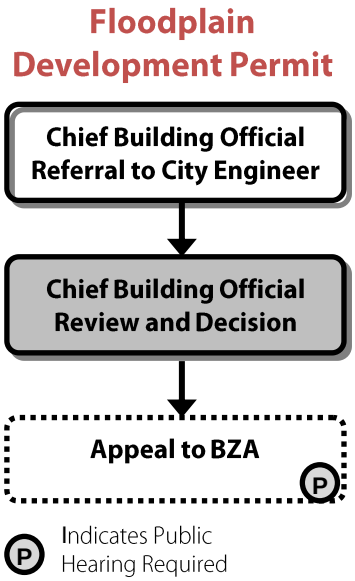
The Chief Building Official shall review the application and make a decision on the Sign Permit.

(c) Review Criteria

An application for a Sign Permit shall be approved only if the Chief Building Official determines that it is consistent with any provisions of this USDO and the Albany City Code.

(6) Floodplain Development Permit

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.



(a) Applicability

(i) A Floodplain Development Permit is required for all construction and other development to be undertaken in areas of special flood hazard.

(ii) The purpose of a Floodplain Development Permit is to protect the City's citizens from increased flood hazards and to ensure that new development is constructed to minimize its exposure to flooding.

(iii) It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map, without a valid

Floodplain Development Permit.

(b) PROCEDURE

The Chief Building Official shall refer the application to the City Engineer. Upon receiving comments from the City Engineer, the Chief Building Official shall review the application and make a decision on the Floodplain Development Permit.

(c) REVIEW CRITERIA

An application for a Floodplain Development Permit shall be approved only if the Chief Building Official determines that:

(i) The proposed building sites will be reasonably safe from flooding.

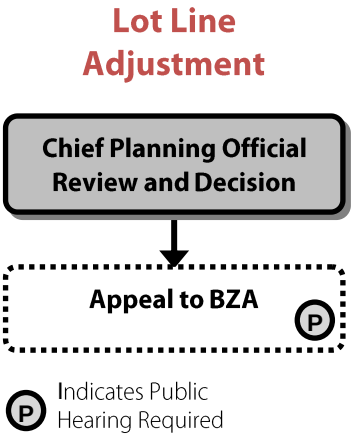
(ii) If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements meet the City adopted standards, as amended.

(iii) Any proposed development in an area of special flood hazard does not result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Chief Building Official may require the applicant to submit additional technical analyses and data necessary to complete the determination.

(iv) All necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

(7) LOT LINE ADJUSTMENT

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.



(a) APPLICABILITY

No existing lot line shown on a recorded document or subdivision plat, as applicable, may be relocated between two abutting lots or tracts unless the Chief Planning Official has first approved that relocation pursuant to this Section 375-5(E)(7).

(b) PROCEDURE

The Chief Planning Official shall review the application and make a decision on the Lot Line Adjustment.

(c) REVIEW CRITERIA

An application for a Lot Line Adjustment shall be approved only if the Chief Planning Official determines that it:

(i) Is consistent with any provisions of this USDO and the Albany City Code;

(ii) Will not result in the creation of any new developable lots;

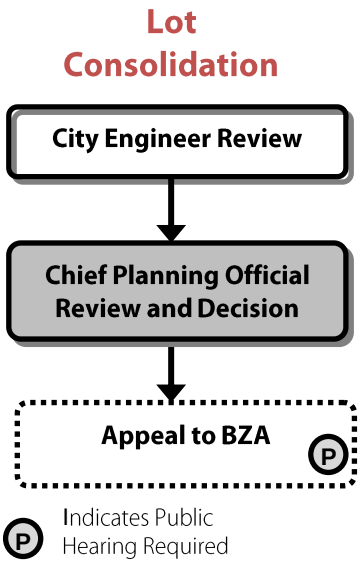
(iii) If each of the existing lots and the structures on those lots complies with the requirements of this USDO, then after the adjustment each of the resulting lots will still comply with the requirements of this USDO;

(iv) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the requirements of this USDO, the proposed adjustment will not create any new nonconformity between the requirements of this USDO and any of the lots or any of the structures on the lots whose lot lines are to be adjusted.

(v) If any of the lots are nonconforming, the lot line adjustment will either remove the non-conformity or improve it.

(8) LOT CONSOLIDATION

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.



(a) APPLICABILITY

Two or more existing lots shown on a recorded document or subdivision plat, as applicable, may be consolidated into a single or fewer lots for purposes of application of the standards in this USDO or the City building code only after the Chief Planning Official has first approved that consolidation pursuant to this Section 375-5(E)(8).

(b) PROCEDURE

The City Engineer shall review the application and make a recommendation to the Chief Planning Official. The Chief Planning Official shall review the application and make a decision on the Lot Consolidation.

(c) REVIEW CRITERIA

An application for the Lot Consolidation shall be approved only if the Chief Planning Official determines that:

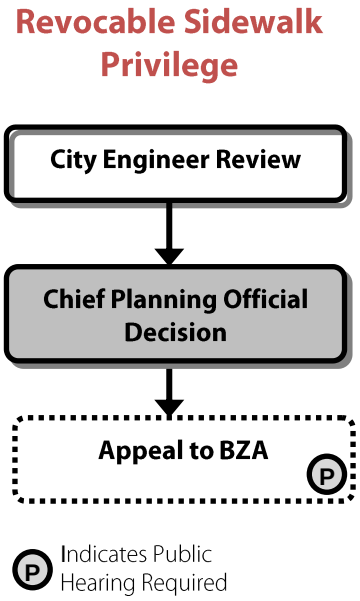
(i) It is consistent with the Comprehensive Plan;

(ii) It is consistent with any provisions of this USDO and the Code of the City of Albany;

(iii) Each of the existing lots and the structures on those lots complies with the requirements of this USDO, and after the consolidation the resulting lot will still comply with the requirements of this USDO;

(iv) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the requirements of this USDO, the proposed consolidation will not create any new nonconformity between the requirements of this USDO and any of the lots of any of the structures on the lots being consolidated.

(9) REVOCABLE SIDEWALK PRIVILEGE



All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) APPLICABILITY

This section applies to all development or redevelopment projects or activities that will occur on public rights-of-way, including but not limited to sidewalks.

(b) PROCEDURE

The City Engineer shall review the application and make a recommendation to the Chief Planning Official. The Chief Planning Official shall review the application and make a decision on the Revocable Sidewalk Privilege.

(c) REVIEW CRITERIA

An application for a Revocable Sidewalk Privilege may be approved if the Chief Planning Official determines that:

(i) The City Engineer and Traffic Engineering Unit have no objection to the issuance of the permit;

(ii) The issuance of the permit will not compromise public health and safety, including but not limited to automobile, bicycle, and pedestrian safety;

(iii) The applicant has agreed to provide and maintain liability insurance protecting the City from liability for damage or injury related to the proposed activities on the public right-of-way, if the City determines that insurance be provided based on its evaluation of potential risks to the City; and

(iv) The issuance of the permit is consistent with the intent and character of the district in which the property is located.

(d) POST-DECISION ACTIONS

A Revocable Sidewalk Privilege may be revoked by the City for violation of any provision of this USDO or any condition attached to the Privilege, or if the City requires other use of the sidewalk or public property.

(10) CURB CUT PERMIT

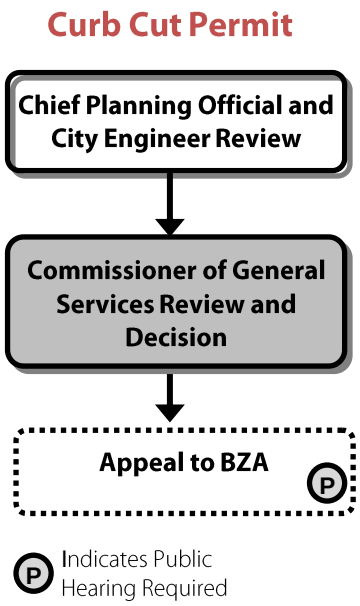
All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) APPLICABILITY

This section applies to all development or redevelopment projects or activities that require the creation of a new curb cut or the relocation of an existing curb cut on a public right-of-way. See also, Chapter 323 (Streets and Sidewalks).

(b) Procedure

The Chief Planning Official and the City Engineer shall review the application, coordinate with the Traffic Engineering Unit, and make a recommendation to the Commissioner of General Services. The Commissioner of General Services shall review the application and make a decision on the Curb Cut Permit.



(c) Review Criteria

An application for a Curb Cut Permit may be approved if the Commissioner of General Services determines that:

(i) The City Engineer and Traffic Engineering Unit have no objection to the issuance of the permit;

(ii) The issuance of the permit will not compromise public health and safety, including but not limited to automobile, bicycle, and pedestrian safety; and

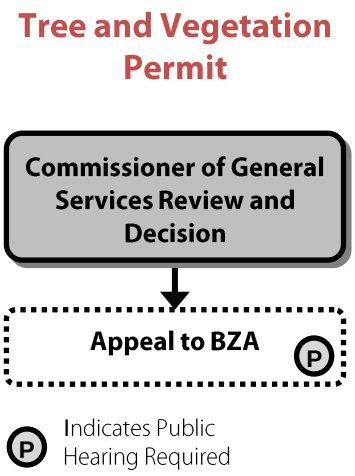
(iii) The issuance of the permit is consistent with the intent and character of the district in which the property is located.

(d) Post-Decision Actions

A Curb Cut Permit may be revoked by the City for violation of any provision of this USDO or any condition attached to the Permit, or if the City requires other use of the public right-of-way.

(11) Tree and Vegetation Permit

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.



(a) Applicability

It shall be unlawful for any person other than an approved employee or agent of the City to cut, trim, prune, spray, brace, plant, move, remove or replace any tree in any public street, right-of-way, or public park within the City, or to cause the same to be done, unless and until a written permit to do so shall have been first obtained. See also, Chapter 345 (Trees and Vegetation).

(b) Procedure

The Commissioner of General Services shall review the application and make a decision on the Tree and Vegetation Permit.

(c) Review Criteria

An application for a Tree and Vegetation Permit shall be approved only if the Commissioner of General Services determines that:

(i) The applicant shall follow standards promulgated by the U.S. Occupational Safety and Health Administration (OSHA).

(ii) Permitted work conforms to the American National Standard for Arboricultural Operations - Pruning, Repairing, Maintaining, and Removing Trees, and Cutting Brush - Safety Requirements.

(12) STORMWATER, GRADING AND EROSION PERMIT

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) APPLICABILITY

(i) GENERAL

No person shall commence or perform any grading and no person shall import or export any earth materials to or from any grading site without first having obtained a permit from the City Engineer and Storm Water Management Officer. See also, Chapter 211 (Grading and Mining).

(ii) EXEMPTIONS

In the following instances, a Stormwater, Grading and Erosion Permit is not required:

A. The excavation or fill does not exceed two feet in vertical depth at its deepest point measured from the original ground surface and does not exceed 50 cubic yards of material on any one lot; however, no fill shall be placed on a surface having a slope steeper than one vertical to ten horizontal, and no fill shall be placed that will alter the existing drainage pattern.

B. An excavation below finished grade for basements, footings, swimming pools or any underground structure that does not exceed 50 cubic yards of material and is authorized by a valid building permit issued by the Chief Building Official.

C. Work within the public right-of-way, dams and drainage structures constructed by or under contract with the City Engineer, Department of General Services, or the Department of Water and Water Supply of the City of Albany.

D. Work accomplished under the auspices of and owned and controlled by the federal government or the State of New York.

E. The depositing of rubbish or debris at any landfill owned or operated by the City of Albany.

(b) PROCEDURE

The City Engineer and Storm Water Management Officer shall review the application, allow revision of the application, and make a decision on the Stormwater, Grading and Erosion Permit.

(i) **POST-DECISION ACTIONS AND LIMITATIONS**

The post-decision actions and limitations in Section 375-5(D)(12) shall apply to the application except as follows:

A. Every Stormwater, Grading, and Erosion Permit issued shall be valid for a period of one year from the approval date, provided that any permit shall expire on the 180th day from date of issuance if the permitted work has not been commenced by that date.

B. After expiration, a new permit shall be obtained before any work is done, and the applicant shall pay an application fee in the amount required for the original permit, determined by the total valuation of the uncompleted portion of the work.

C. If the holder of a Stormwater, Grading, and Erosion Permit presents satisfactory reasons for his failure to complete the work during the period of validity of the permit, the City Engineer, upon application by the permittee, may grant extensions of time reasonably necessary by reason of such difficulties. No request for such extensions shall be considered after the date on which the permit would have otherwise expired.

D. If a permit has not been secured within six months after plans have been submitted for review, no permit shall be issued until the plans have been rechecked and approved, and an additional fee for such rechecking has been submitted. The City Engineer may waive this provision if satisfied that the nature of the work involved makes it impractical to secure a permit within six months after filing the plans.

(c) REVIEW CRITERIA

An application for a Stormwater, Grading, and Erosion Permit shall be approved only if the City Engineer and the Storm Water Management Officer determines that the proposed development:

(i) Will not create a hazard, slides, or be located on unstable soil. If the City Engineer determines that the proposed grading is not likely to be of such extent as to cause an immediate hazard on the proposed site, a permit may be issued upon receipt of a sworn affidavit that has been recorded in the office of the County Clerk, stating that the applicant is fully aware that the site is in an area subject to slides or unstable soil;

(ii) Will not be located in an area subject to inundation without appropriate mitigation. If it can be shown by authentic past records that any possible inundation is not likely to be of such extent as to be an immediate hazard to the site, the City Engineer may issue a permit upon receipt of a sworn affidavit which has been recorded in the office of the County Clerk stating that the applicant is fully aware that the grading is in an area subject to inundation;

(iii) Will be consistent with the Comprehensive Plan;

(iv) Will comply with applicable district, use, and development standards in this USDO and in Chapter 211 (Grading and Mining); and

(v) Will comply with all requirements and conditions of any prior development permits or approvals related to the property.

(13) MINOR CERTIFICATE OF APPROPRIATENESS

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

Minor Certificate of Appropriateness

(a) APPLICABILITY

This section applies to all applications for permits for work involving any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or a property within an historic district; any material change in the appearance of such a property or its windows, light fixtures, signs or awnings, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley; or any grading or roadwork on a designated landmark property or property in a historic district:

(i) That does not involve the construction of a new primary structure; and

(ii) That does not include subsurface excavation in the area defined in Section 375-2(F)(2)(c)(i) (Fort Orange/Downtown Albany Archaeological Review District), or Section 375-2(F)(2)(c)(ii) (Secondary Downtown Albany Archaeological Review District); and

(iii) That the Historic Resources Commission has designated to be a Minor Alteration (including but not limited to ordinary maintenance and repair of the site and any structures on the site, and any change to the features of a landmark or a contributing property in a historic district that does not materially change the historic characteristics of the property); and

(iv) The following activities:

A. Change of paint color;

B. Replacement of a feature that is an element of the structure;

C. Restoring original materials on a structure or site;

D. Changes in-kind to a sign on the property;

E. Replacement of non-original or missing windows;

F. Replacement of non-original or roofing materials;

G. Replacement of non-historically appropriate materials with historically appropriate materials based on physical or pictorial evidence.

(b) PROCEDURE

(i) The Chief Planning Official shall review the application and make a decision on the Minor Certificate of Appropriateness.

(ii) The Chief Planning Official may refer the application to a staff member or member of the Historic Resources Commission or member of the Planning Board with knowledge of historic and/or archaeological resources for review, at the Chief Planning Official's discretion.

(iii) If the Chief Planning Official denies the application for a Minor Certificate of Appropriateness, the applicant may request review of the application by the Historic Resources Commission. If so requested, the application shall be referred to the Historic Resources Commission, and shall be reviewed and a decision made pursuant to Section 375-5(E)(19) (Major Certificate of Appropriateness).

(c) REVIEW CRITERIA

The Chief Planning Official may approve a Minor Certificate of Appropriateness if he or she determines that the Review Criteria in Section 375-5(E)(19)(c)(ii) (Major Certificate of Appropriateness Review Criteria) have been met.

(14) MAJOR DEVELOPMENT PLAN REVIEW

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) APPLICABILITY

The Major Development Plan procedures and standards in this Section 375-5(E)(14) apply to the review of any development plan associated with the following:

(i) All new civic and institutional, commercial, and industrial development with 10,000 square feet or more of gross floor area.

(ii) All new residential development which contains more than four dwelling units within a single lot or parcel.

(iii) New residential development containing more than four units in non-single-family structures on contiguous or adjacent lots that have previously been subdivided.

(iv) All expansions of existing multi-family, nonresidential, mixed-use and special purpose properties which increase the ground floor area by more than 10,000 square feet of gross floor area.

(v) Any conversions of an existing residential structure to a nonresidential or institutional use (excepting the establishment of a home occupation).

(vi) All conversions of an existing nonresidential structure to a residential use containing 20 or more dwelling units.

(vii) All new surface parking lots with 10 or more parking spaces, or expansion of an existing parking area by 10 or more parking spaces.

(viii) Any change of use in the MU-CU or MU-CH districts on a lot containing 20,000 square feet or more of lot area.

(ix) Any change of use in the MU-NE or MU-NC districts on a lot of 10,000 square feet or more of lot area.

(x) All new development in the Normans Kill Overlay (NK-O) zone district where Major Development Plan review is required under Section 375-2(F)(6)(c).

(xi) All parcels in excess of one acre where more than 50 percent of the existing trees or vegetation are proposed for clear-cutting or removal.

(xii) All Subdivisions of Land that will create five or more new lots, or for which and for which new public infrastructure is required to be constructed (in addition to utility connections from new lots to existing utility lines).

(b) PROCEDURE

(i) REVIEW AND DECISION

A. The Chief Planning Official shall review the application and prepare a staff memorandum and recommendation in accordance with Section 375-5(D)(5).

B. The Planning Board shall review the Major Development Plan application and decide the application in accordance with Section 375-5(D)(7).

(ii) OPTIONAL PROCEDURE

The applicant may request a Concept Review of a Major Development Plan with the Planning Board in accordance with this Section 375-5(D)(7). However, no public hearing shall be required, the discussion shall be informal, the Planning Board shall take no action on the application, and the City shall not be bound by the results of any discussion held or opinions stated at a Concept Review meeting.

(iii) WAIVERS

A. An applicant may request, in writing, a waiver or modification of any of the development plan review development standards.

B. The Planning Board reserves the right to waive or otherwise modify such standards upon a finding that such action is necessary to eliminate practical difficulties associated with strict interpretation of these provisions and that the result will not violate the spirit and intent of these provisions. Such request shall set forth the specific relief sought and the reasons the same are necessary.

(c) REVIEW CRITERIA

(i) GENERAL CRITERIA

An application for Major Development Plan shall be approved only if the Planning Board determines that the proposed development:

A. Will not create significant adverse impacts on the surrounding neighborhood, or any significant adverse impacts will be limited to a short period of time;

B. Will not create risks to public health or safety;

C. Is consistent with any relevant prior approvals or conditions;

D. Is consistent with the Comprehensive Plan;

E. Is consistent with any provisions of this USDO and the Albany City Code; and

F. Complies with all requirements and conditions of any prior development permits or approvals related to the property.

(ii) CRITERIA FOR APPROVAL OF CLEAR-CUTTING

An application for a Major Development Plan meeting applicability (xi) above shall be approved only if the Planning Board determines that:

A. The clear-cutting is for a recognized silvicultural purpose.

B. There are adequate buffers on the shorelines of lakes, ponds, rivers or streams; along major travel corridors; and, if necessary, along property boundaries around dwellings on adjacent lands, so as to preserve water quality and visual quality, to control noise, and to prevent drainage or erosion problems.

C. Habitats of rare and endangered species and other key wildlife habitats will be protected.

D. Regeneration of timber is assured.

E. If proposed and if allowed by the Board, any use of pesticides and herbicides will be strictly controlled.

F. Harvest will be controlled by qualified personnel by contract, marked stand, direct supervision or other adequate means.

G. Wood roads and skid trails will be located and equipment will be operated so as to minimize erosion on slopes and elsewhere.

H. The storage, mixing or bulk handling of fuel, chemicals or other hazardous materials will be strictly controlled.

I. The Timber Harvesting Guidelines for New York (New York Section of the Society of American Foresters, June 1975) will be adhered to.

(15) District Plan Approval

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) Applicability

Proposed projects containing 10 acres or more of land owned or operated by a single or related entity or institution in the MU-CI districts, or containing two acres or more of land owned or operated by a single or related entity or institution in the R-V, MU-CU or MU-CH districts, may elect to obtain approval of a comprehensive District Plan.

(b) Procedure

(i) Application Submittal and Acceptance

A. The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 375-5(D)(4).

B. The planning area for the District Plan shall include all the contiguous areas and properties under the ownership and control of the institution. All maps submitted for review of the District Plan also shall depict properties within 500 feet of the planning area boundaries.

(ii) Staff Review and Action

A. The applicant shall hold at least one community meeting to discuss the proposed District Plan before submitting the application for review and approval by the City. Mailed notice of the community meeting shall be provided as described in Section

375-5(D)(6)(ii). The applicant shall submit with the application documentation that the community meeting has taken place, the date and time of the meeting, a list of attendees, a summary issues raised regarding the District Plan, and any responses to those concerns incorporated in the District Plan.

B. The Chief Planning Official shall review the application and prepare a staff memorandum and recommendation to the Planning Board.

(iii) **PLANNING BOARD REVIEW AND DECISION**

The Planning Board shall review the application and decide the application in accordance with Section 375-5(D)(7).

(iv) **POST-DECISION ACTIONS AND LIMITATIONS**

After a District Plan is approved., all subsequent development proposed by the institution that substantially complies with the density, location and uses of the approved District Plan shall be administratively approved by the Chief Planning Official without the need for additional public hearings.

(c) REVIEW CRITERIA

An application for a District Plan shall be approved only if the Planning Board determines that the proposed plan meets the following criteria:

(i) It complies with all applicable standards for District Plans as set forth in the Administrative Manual, or offers sound reasons for variations from those standards;

(ii) The organization and layout of lots, structures, parking areas, loading area, and automobile, bicycle, and pedestrian circulation routes shall not result in greater adverse impacts on adjacent Residential districts than if the project were designed under the standards applicable to the property if a District Plan were not approved, unless those adverse impacts have been mitigated to the maximum extent practicable;

(iii) The organization and layout of lots, structures, parking areas, loading area, and automobile, bicycle, and pedestrian circulation routes shall not result in greater adverse impacts on the City's street, utility, and infrastructure systems than if the project were designed under the standards applicable to the property if a District Plan were not approved; and

(iv) Sufficient public safety, transportation and utility facilities and services are available to serve the planning area at the proposed level of development, while maintaining sufficient levels of service to existing and anticipated development in surrounding areas.

(16) CONDITIONAL USE PERMIT

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) APPLICABILITY

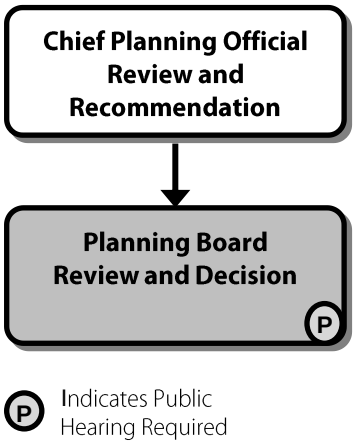
Conditional uses are those uses that have potential unforeseen impacts or unique form and require a careful case-by-case review of their location, design, configuration and impact to determine, against fixed standards, the desirability of permitting their establishment on any particular site.

(b) Procedure

(i) The Chief Planning Official shall review the application and prepare a staff memorandum and recommendation in accordance with Section 375-5(D)(5).

(ii) The Planning Board shall review the application, hold a public hearing, and decide the application in accordance with Section 375-5(D)(7).

Conditional Use Permit



(c) Review Standards

An application for a Conditional Use Permit shall be approved only if the Planning Board determines that it:

(i) Is consistent with any provisions of this USDO and the Albany City Code;

(ii) Would not result in a random pattern of development with little relationship to existing or planned development;

(iii) Would not cause negative fiscal or environmental impacts on adjacent properties and the surrounding neighborhood;

(iv) Is consistent with the purposes and objective of the zone district and character of the neighborhood in which it is located and the specific use standards applicable to the use;

(v) Would not result in harmful cumulative effects or impacts of aggregate similar conditional uses;

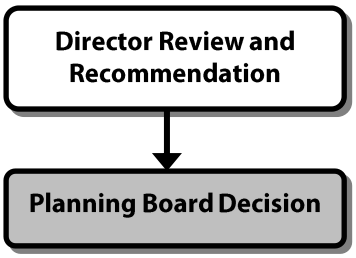
(vi) Would not place excessive burden on public improvements, facilities, services, or utilities; and

(vii) Will provide a necessary and desirable service that is in the interest of the public convenience and will contribute to the general welfare of the surrounding neighborhood or community.

(17) Demolition Review

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

Demolition Review



(a) Applicability

No person shall demolish any building, structure or any portion of a building or structure without a valid Demolition Permit as issued by the Chief Building Official pursuant to this Section 375-5(E)(17), unless the demolition involves one of the following:

A. Designated historic properties, which are subject to review by the Historic Resources Commission pursuant to Section 375-5(E)(13) or Section 375-5(E)(19), as applicable;

B. Any principal structure located within the I-2 zoning district containing less than 20,000 square feet of gross floor area;

C. Partial demolitions involving less than 25 percent of the non-street facing portions of the principal structure; and

D. Accessory structures containing less than 500 square feet of gross floor area.

(ii) This Section shall not reduce any emergency powers or any other powers of the Chief Building Official as to public safety, health and welfare.

(b) PROCEDURE

(i) APPLICATION SUBMITTAL AND ACCEPTANCE

A. An application, including a redevelopment or restoration plan, shall be submitted and accepted, and may be withdrawn, in accordance with Section 375-5(D)(4).

B. The applicant shall provide a plan to ensure a minimum of 35 percent of construction and demolition debris generated from the demolition project is diverted from disposal in landfills through recycling, reuse, and diversion programs.

(ii) STAFF REVIEW AND ACTION

A. The Chief Planning Official shall review the application and prepare a staff memorandum and recommendation in accordance with Section 375-5(D)(5). In addition, the Chief Building Official and City Engineer shall review the application and indicate whether the demolition would violate any City building codes or other ordinances under their respective jurisdictions. Any application for demolition may be referred to the Historic Resources Commission for a review and report on the project.

B. The Planning Board shall review the application and decide the application in accordance with Section 375-5(D)(7).

(c) REVIEW CRITERIA

The following criteria shall be evaluated by the Planning Board, any or all of which may be used by the Planning Board in making its determination to approve or deny an application for a Demolition Review:

(i) Whether the demolition and/or proposed redevelopment plan is consistent with the Comprehensive Plan, neighborhood or District Plans, this USDO, and/or City or regional planning objectives.

(ii) Whether the structure has significant historical, architectural, aesthetic or cultural value in its present or restored condition and whether the loss of the building would be detrimental to the historical or architectural heritage of the City.

(iii) The relationship of the building to the character of the neighborhood as an established and definable area, the streetscape and its environs, or any adjacent or attached buildings.

(iv) The age and condition of the building, its architectural, archaeological or historic importance, and its importance to the streetscape and the surrounding neighborhood.

(v) The public health and safety.

(vi) Whether the proposed redevelopment project is consistent with the requirements and whether any required approvals for variances or conditional use permits have been granted.

(vii) The architectural merits of the proposed new construction, as compared to the building or structure proposed to be demolished, and as related to the character of surrounding neighborhood or district.

(viii) The details of the development plan and proposed use, and the timeframe within which the applicant intends to commence the proposed redevelopment of the site.

(ix) Whether realistic alternatives, including adaptive uses, are likely based upon the nature or cost of work necessary to preserve the structure.

(x) The condition of the structure(s), the economic viability of rehabilitation, and whether the building or structure can be rehabilitated or reused.

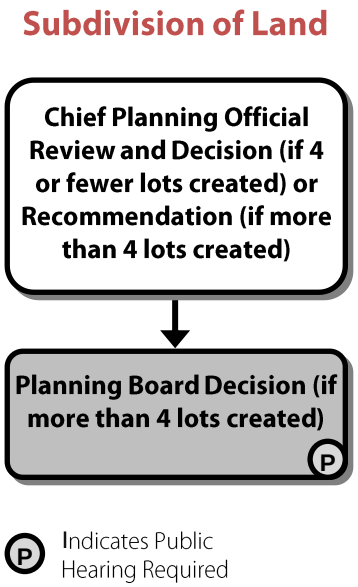
(xi) Whether the hardship is self-created or whether the building or structure proposed for demolition is structurally unsound despite efforts by the owner to properly maintain it.

(xii) Whether some portion of the building, such as a façade or distinctive architectural details, can or should be retained or reused in the new construction.

(xiii) Evidence or testimony presented by any established City board, committee or department, community organization, neighborhood association, elected official or member of the general public.

(18) SUBDIVISION OF LAND

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.



(a) APPLICABILITY

The provisions of this Section shall apply to all divisions of land within the City into new or different lots for development, except as exempted by state or federal law or court decisions interpreting those laws.

(b) PROCEDURE

(i) STAFF REVIEW AND ACTION

The Chief Planning Official shall review the application and prepare a recommendation to the Planning Board.

(ii) SCHEDULING AND PUBLIC NOTICE OF MEETINGS

A. For Subdivisions of land that will create five or more new lots, or for which new public infrastructure is required to be constructed (beyond utility connections from new lots to existing utility lines), the application shall be scheduled, and required public notices provided, for Planning Board hearing in accordance with Section 375-5(D)(6).

B. Subdivisions of Land creating four or fewer new lots, and for which no new public infrastructure is required to be constructed (except for utility connections from new lots to existing utility lines) do not require a public hearing and may be approved by the Chief Planning Official.

(iii) **PLANNING BOARD REVIEW AND ACTION**

A. **APPROVAL OF PLAT**

1. If Planning Board action is required the Planning Board shall review the application, hold a public hearing on the Subdivision, and provide feedback to the applicant in accordance with Section 375-5(D)(7).
2. Within 30 days, the Chief Planning Official shall conditionally approve, with or without modification, disapprove, or grant final approval and authorize the subdivision plat.

B. **APPROVAL OF PLAT IN SECTIONS**

Conditional or final approval of a Subdivision may be granted subject to any requirements imposed by the Planning Board.

C. **ADJUSTMENTS OR WAIVER OF STANDARDS**

1. Where the Planning Board finds that due to the special circumstances of a particular plan, the provision of certain required improvements is not necessary in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive or adjust such requirements subject to appropriate conditions.
2. In granting variances and modifications, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.
3. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variations will not have the effect of nullifying the intent and purpose of the Comprehensive Plan, this USDO, and the Zoning Map. See Section 375-5(E)(21) (Area or Use Variances).

(iv) **POST-DECISION ACTIONS AND LIMITATIONS**

The post-decision actions and limitations in Section 375-5(D)(12) shall apply to the application except as follows:

A. **EXPIRATION OF APPROVAL**

1. Approval of the subdivision plat shall expire within 180 days after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed.
2. The Chief Planning Official may extend by not more than two additional periods of 90 days the time in which a conditionally approved subdivision plat must be submitted for signature if, in the Chief Planning Official's opinion, such

extension is warranted by the particular circumstances unique to the site or proposed project.

A Subdivision on which all conditions of approval have been completed does not expire, but shall remain valid unless and until the subdivision plat is subsequently amended in accordance with this Section 375-5(E)(18).

B. **CERTIFICATION OF PLAT**

1. Within five business days of the adoption of the resolution granting conditional or final approval of the Subdivision, the subdivision plat shall be certified by the Chief Planning Official as having been granted conditional or final approval, and a copy of such resolution and subdivision plat shall be filed in the City Clerk's office. The original subdivision plat shall be filed in the Albany County tax records.
2. A copy of the resolution shall be mailed to the owner.
3. In the case of a conditionally approved Subdivision, such resolution shall include a statement of the requirements, which when completed will authorize the signing of the certification. Upon completion of such requirements the subdivision plat shall be signed by the Chief Planning Official and a copy of such signed subdivision plat shall be filed in the City Clerk's office.

(c) REVIEW CRITERIA

An application for Major Subdivision of Lots shall be approved only if the Planning Board determines that:

(i) All new lots created meet the dimensional standards for that district;

(ii) The proposed development is consistent with the Comprehensive Plan;

(iii) The proposed development is consistent with any provisions of this USDO and the Albany City Code; and

(iv) The proposed development complies with all requirements and conditions of approval of any prior development permits or approvals applicable to the property.

(19) MAJOR CERTIFICATE OF APPROPRIATENESS

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) APPLICABILITY

This Section 375-5(E)(13) applies to all applications for permits involving any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or a property within an historic district, that does not qualify for review as a Minor Certificate of Appropriateness under Section 375-5(E)(13), including without limitation:

(i) Demolition of a structure;

(ii) Construction of a new structure on a site containing a landmark or in a historic district;

(iii) Substantial alterations to the façade of a landmark or a property within a historic district;

(iv) Replacing historically appropriate materials with non-historically appropriate materials; and/or

(v) Any subsurface excavation, grading, or roadwork on a designated landmark property, or in a historic district, or in the Fort Orange/Downtown Albany Archaeological Review District.

Major Certificate of Appropriateness

P Indicates Public Hearing Required

(b) PROCEDURE

(i) The Chief Planning Official shall review the application for compliance with other requirements of this USDO and shall forward the application to the Historic Resources Commission.

(ii) Public notice of the application for a Major Certificate of Appropriateness shall be posted by the owner or owner's representative on the property for a minimum of ten days. This notice must remain in place until a decision to approve or deny the application has been made. The notice shall specify the proposed work, the time and place of the public hearing, and to whom and by when any public comments are to be communicated. The notice must be placed at or near the lot line in the front yard so that it will be plainly visible from the street, and, in cases where a property has frontage on more than one street, an additional sign must be placed at or near the lot line on any additional street frontage so that the sign will be plainly visible from the street on which it has such additional frontage.

(iii) The Historic Resources Commission shall hold a public hearing prior to rendering a decision on any application for a Major Certificate of Appropriateness. Mailed notice of the public hearing shall be provided pursuant to Section 375-5(D)(6)(c)(ii). The notice shall specify the time and place of the public hearing, a brief description of the proposal, and the location where the proposal may be reviewed prior to the hearing. The property owner and any interested party may present testimony or documentary evidence regarding the proposal at the hearing, which will become a part of the record. The record may also contain staff reports, public comments, and other relevant documents.

(iv) The Commission shall make a decision within 60 days of the determination that the application is complete, In the event that no decision is made by the Commission within the allotted time, the permit may be issued by the Chief Planning Official without a decision of the Commission\.

(v) Each decision of the Commission shall be in writing and, if an approval with or without conditions or modifications, shall be in the form of a Certificate of Appropriateness. The Commission's decision shall state the reasons for denying or modifying any application.

(vi) A Major Certificate of Appropriateness is valid for a period of one year from the date of issue. An applicant may apply, in writing, for an extension and shall explain the

reasons for the extension request. The Historic Resources Commission may grant an extension of one year for good cause shown.

(c) REVIEW CRITERIA

The Historic Resources Commission may approve a Major Certificate of Appropriateness if it determines that:

(i) In cases that involve review pursuant to Section 375-2(F)(2) (Archaeological Resources Overlay) where the results of any required Cultural Resources Investigation indicate that it is not likely that significant archaeological features exist on the site, or that the proposed activity will not damage or disrupt any significant archaeological features on the site, or the applicant has committed to adequate protection or relocation of any significant archaeological features likely to be found on the site.

(ii) In cases that involve changes to the property or the site visible from the public right-of-way, and the application conforms to those guidelines in Section 375-2(F)(1)(c) (General Guidelines), Section 375-2(F)(1)(d) (Rehabilitation Guidelines), Section 375-2(F)(1)(e) (New Construction Guidelines), Section 375-2(F)(1)(f) (New Construction in or Adjacent to the Downtown Albany Historic District), and Section 375-2(F)(1)(g) (Fence, Wall, and Accessory Structure Guidelines), to the maximum extent practicable and/or the applicant has mitigated any departures to the maximum extent practicable.

(20) DESIGN REVIEW OF TALL BUILDINGS IN MU-DT

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) APPLICABILITY

This Section applies to all applications to build a building over 100 feet in height in the MU-DT zoning district.

(b) PROCEDURE

(i) The Chief Planning Official shall review the application and prepare a staff memorandum and recommendation in accordance with Section 375-5(D)(5).

(ii) The Planning Board shall review the application, hold a public hearing, and decide the application in accordance with Section 375-5(D)(7).

(iii) Notwithstanding subsection (b)(ii) above, if the property is located in the HR-O district, the Planning Board shall make a recommendation to the Historic Resources Commission.

(c) REVIEW CRITERIA

An application for Design Review shall be approved if the Planning Board determines that:

(i) The design complies with the standards in Section 375-4 (G) (Building and Streetscape Design) except as necessary to comply with the standards in subsections (ii) through (vii) below;

(ii) The design reflects architectural excellence in terms of orientation to adjacent streets and open spaces, variety and durability of building materials, façade articulation, and emphasis on pedestrian entrances and sitting gathering spaces.

(iii) The design allows for adequate light and air for nearby public streets, sidewalks, trails, parks, and open spaces;

(iv) The design, including but not limited to the streetscape and vehicular and pedestrian access points, contributes to the walkability of adjacent streets;

(v) The design does not cast significant shadows on nearby public parks or open spaces between the hours of 9:00 am and 3:00 pm on October 31, or if significant shadows are cast on that date, the shadows have been mitigated to the maximum extent feasible through building shaping and design;

(vi) The ground level design contributes to encouraging street activity on adjacent streets; and

(vii) The design is consistent with the intended character of the downtown area, as described in the adopted Comprehensive Plan, and with the intent of the MU-DT zone district.

(21) AREA OR USE VARIANCE

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

Area or Use Variance

P Indicates Public Hearing Required

(a) APPLICABILITY

If an application to the Chief Building Official or Chief Planning Official under this USDO does not comply with the provisions of this USDO, the Chief Building Official or Chief Zoning Official shall issue a denial. The applicant may then apply for a variance from the dimensional or development standards or the permitted use regulations of this USDO pursuant to this Section 375-5(E)(21).

(b) PROCEDURE

(i) The Chief Planning Official shall review the application and prepare a staff memorandum and recommendation in accordance with Section 375-5(D)(5).

(ii) The Board of Zoning Appeals (BZA) shall review the application, hold a public hearing, and decide the application in accordance with Section 375-5(D)(9).

(iii) The BZA, in the granting of variances, shall grant the minimum variance that it shall deem necessary and adequate to address the hardship while preserving and protecting the character of the neighborhood and health, safety and welfare of the community.

(c) REVIEW CRITERIA

(i) AREA VARIANCE

A. In making its determination regarding a request for an Area Variance, the BZA 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. In making such determination, the BZA shall also consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance
2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.
3. Whether the requested area variance is substantial.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the BZA but shall not necessarily preclude the granting of the area variance.

(ii) **USE VARIANCE**

No Use Variance shall be granted by a BZA 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 BZA 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.

(22) FLOODPLAIN VARIANCE

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) APPLICABILITY

(i) An applicant may apply for a variance from any floodplain development standard in Section 375-2(F)(3) (FP-O Floodplain Overlay).

(ii) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in Section 375-5(E)(22)(c) have been fully considered. As the lot size increases beyond 1/2 acre, the technical justification required for issuing the variance increases.

(iii) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

A. The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure; and

B. The variance is the minimum necessary to preserve the historic character and design of the structure.

(iv) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

A. The criteria of Subsections (ii), (v), (vi) and (vii) of this section are met; and

B. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

(v) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(vi) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(vii) Variances shall only be issued upon receiving written justification of:

A. A showing of good and sufficient cause;

B. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

C. A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances.

(b) PROCEDURE

(i) STAFF REVIEW AND ACTION

A. The Chief Planning Official shall review the application and prepare a staff memorandum and recommendation in accordance with Section 375-5(D)(5). In addition, the Chief Building Official and City Engineer shall review the application and indicate whether the Floodplain Variance would violate any City building codes or other ordinances.

B. The Chief Planning Official shall maintain the records of all applications for Floodplain Variances, including technical information, and shall report any variances to the Federal Emergency Management Agency upon request.

(ii) **BOARD OF ZONING APPEALS REVIEW AND ACTION**

A. The Board of Zoning Appeals (BZA) shall review the application, hold a public hearing, and decide the application in accordance with Section 375-5(D)(9).

B. The BZA, in the granting of 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, any environmentally sensitive areas, and the health, safety and welfare of the community.

(iii) **POST-DECISION ACTIONS**

Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

(c) REVIEW CRITERIA

(i) In reviewing Floodplain Variance applications, the BZA shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:

A. The danger that materials may be swept onto other lands to the injury of others;

B. The danger to life and property due to flooding or erosion damage;

C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

D. The importance of the services provided by the proposed facility to the community;

E. The necessity to the facility of a waterfront location, where applicable;

F. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

G. The compatibility of the proposed use with existing and anticipated development;

H. The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

I. The safety of access to the property in times of flood for ordinary and emergency vehicles;

J. The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

L. The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(ii) Upon consideration of the factors in subsection (i) above, the BZA may attach such conditions to the granting of variances as it deems necessary to further the purposes of Section 375-2(F)(3).

(23) HISTORIC PROPERTY HARDSHIP MODIFICATION

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

Historic Property Hardship Modification

(a) APPLICABILITY

This section applies to:

(i) All applications for a modification or waiver of some or all of those historic preservation standards and guidelines in Section 375-2(F)(1) (HR-O Historic Resources Overlay), which can only occur after a denial of a Major Certificate of Appropriateness by the Historic Resources Commission pursuant to Section 375-5(E)(19); and

(ii) All applications to demolish, remove, or relocate a designated landmark or a contributing structure in a historic district, unless the Department of Buildings and Regulatory Compliance has made a written decision that the building presents an imminent threat to the public health, safety, or welfare.

(b) PROCEDURE

(i) An applicant may request, in writing, a waiver or modification of any of the standards or guidelines in Section 375-2(F)(1) (HR-O Historic Resources Overlay) or may request in writing permission to demolish, remove, or relocate a designated landmark or a contributing structure in a historic district.

(ii) The Chief Planning Official may require additional information to be appended to the application, which will verify the practical difficulties or economic hardship claimed by the applicant.

(iii) The Historic Resources Commission reserves the right to waive or otherwise modify such standards or guidelines, or to permit the demolition, removal, or relocation of a structure, upon a finding that such action is necessary to eliminate practical difficulties or economic hardship associated with strict interpretation of these provisions. The applicant shall have the burden of proving any practical difficulty or economic hardship that is claimed.

(iv) The Commission shall limit any waiver or modification of the standards or guidelines, or the approval of any demolition, removal, or relocation of a structure, to the minimum required to alleviate the economic hardship or practical difficulty, and may prescribe conditions that it deems necessary or appropriate.

(v) The Commission shall hold a public meeting on the Historic Property Hardship application at which the applicant and public will have an opportunity to present their views on the application.

(vi) If the Commission finds that the applicant's burden of proof has been met, the Commission shall issue a decision to approve the application with or without conditions. Its decision shall clarify which of the standards or guidelines in Section 375-

2(F)(1) have been waived or modified, and the nature and extent of the waivers or modifications, or shall clarify its permission to demolish, remove, or relocate a structure.

(vii) In the case of an application to demolish, remove, or relocate a landmark structure or a contributing structure in a historic district, the Commission may also decide to approve the application subject to a waiting period of up to 120 days to allow the Commission to document the structure, to consider options to relocate the structure, and/or to consider options to modify the building for future uses that preserves the architectural and historical integrity of the building.

(viii) The decision of the Commission shall be in writing and shall state the reasons for its decision. A copy shall be sent to the applicant by first class mail or personal service with proof of delivery, and a copy filed with the City clerk's office for public inspection.

(c) Review Criteria

(i) Applications that do not involve a demolition, removal, or relocation

The Historic Resources Commission may approve the application, with or without conditions, if it determines that:

A. The applicant cannot realize a reasonable return if compliance with the commission's decision is required, provided, however, that the lack of reasonable return is proven by the applicant to be 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 relief, if granted, will not alter the essential character of the neighborhood; and

D. The alleged hardship has not been self-created.

(ii) Applications for Demolition, Removal, or Relocation

The Historic Resources Commission may approve the demolition, with or without conditions, if it determines that:

A. The applicant has proposed an imminent plan for the redevelopment or reuse of the affected property;

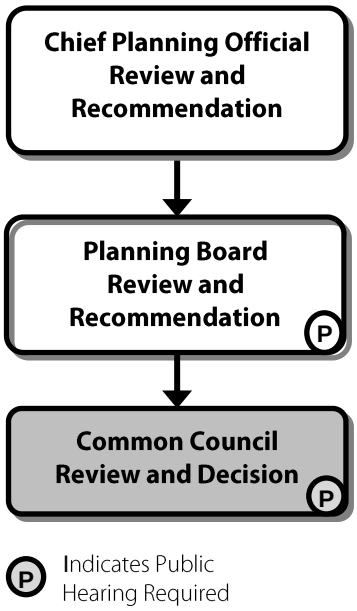
B. The denial of demolition, removal, or relocation will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.

C. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return;

D. Efforts to find a purchaser interested in acquiring the property and preserving it have failed; and

E. The owner has not created his own hardship through waste and neglect that allowed the property to fall into a serious state of disrepair.

(24) AMENDMENTS TO ZONING MAP OR USDO TEXT



All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) APPLICABILITY

(i) The procedures and standards in this Subsection apply to the review of any proposal to amend the Zoning Map or the text of this USDO.

(ii) Any persons or City agency may apply to the Common Council for a Zoning Map and/or USDO Text Amendment by submitting an application to the Chief Planning Official, who shall initiate and application in accordance with Section 375-5(E)(24)(b)(i).

(b) PROCEDURE

(i) APPLICATION SUBMITTAL AND ACCEPTANCE

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 375-5(D)(4), except that, an application may be initiated only by the Chief Planning Official upon referral from City staff, the Planning Board, the BZA, or the Common Council.

(ii) PLANNING BOARD REVIEW AND ACTION

The Planning Board shall review the application, hold a public hearing, and make a recommendation in accordance with Section 375-5(D)(7).

(iii) COMMON COUNCIL REVIEW AND DECISION

A. GENERAL

The Common Council shall review the application, hold a public hearing and decide the application in accordance with Section 375-5(D)(10).

B. ZONING MAP AMENDMENT ADDITIONAL REQUIREMENT

For amendment of the Zoning Map, the affirmative vote of a majority of the Common Council is required. However, an affirmative vote of three-fourths of the Council shall be required whenever a petition protesting an amendment is signed by the owners of 20% or more of the area of:

1. The property included in the proposed change; or
2. The property immediately adjacent to and within 100 feet of the subject area.

(iv) POST-DECISION ACTIONS AND LIMITATIONS

The post-decision actions and limitations in Section 375-5(D)(12) shall apply to the application except as follows:

A. Zoning Map and USDO Text Amendments do not expire, but shall remain valid unless and until the revised Zoning Map or text of this USDO is subsequently amended in accordance with this Subsection.

(c) Review Standards

(i) General Standards

Amending the Zoning Map and the text of this USDO is a matter committed to the legislative discretion of the Common Council. In deciding the application, the Common Council shall consider and weigh the relevance of, and consider whether and the extent to which the proposed amendment:

A. Is consistent with the Comprehensive Plan;

B. Conflicts with any other provisions of this USDO and the Code of the City of Albany;

C. Is required by changed conditions;

D. Addresses a demonstrated community need;

E. Would improve compatibility among uses and would ensure efficient development within the City;

F. Would result in a logical and orderly development pattern; and

G. Would avoid significant adverse impacts on the natural environment—including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

(ii) Zoning Map Amendment Additional Standards

A. Is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zoning district for the land; and

B. Would result in development that is adequately served by public facilities (e.g., streets, potable water, sewerage, stormwater management, solid waste collection and disposal, schools, parks, police, and fire and emergency medical facilities).

(d) Post-Decision Actions

(i) Six Month Review

Following its initial effective date of June 1, 2017, the USDO shall undergo a six-month evaluation period. During the six-month period, Planning Staff will compile a list of any concerns or unintended consequences that may arise through the application of the USDO to specific projects, building permit applications, and public comment. After such review, if the Chief Planning Official finds sufficient grounds for amending the code, it shall be amended pursuant to this Section 375-5(E)(24) (Amendments to Zoning Map or USDO Text).

(ii) Annual Review

Following the six month review described in subsection (i), the Chief Planning Official shall deliver to the Common Council at least once each calendar year a report that shall include, at a minimum:

A. A list of all Area Variance Applications and their status;

B. A list of all Use Variances and associated decisions (i.e., approved, approved with conditions, denied);

C. A list of all Conditional Use Permits and their status;

D. A list of all projects reviewed under Development Plan Review and their status;

E. A list and totals of any approved Accessory Dwelling Units

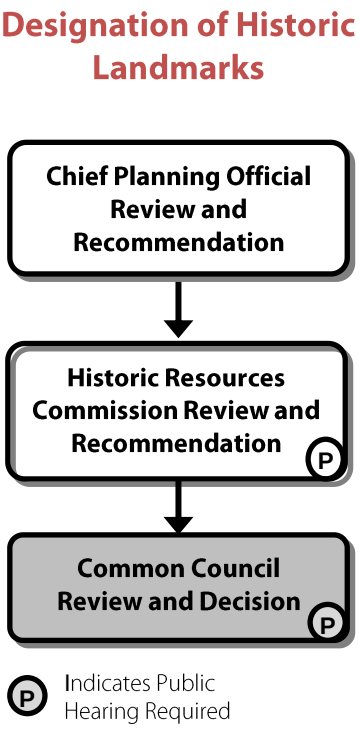
F. A list and totals of any units produced under the affordable housing incentives in Section 375-4(A)(4)(a)(iii);

G. The status of any inclusionary housing or other housing market studies as well as any recommendations for modifications of the affordable housing provisions in this USDO based on such studies; and

H. A memorandum identifying any text or map amendments that the Chief Planning Official intends to submit to the Planning Board under this Section 375-5(E)(24) (Amendments to Zoning Map or USDO Text). These recommended text amendments or map changes may be based on feedback from applicants, new technology, advanced zoning tools, or to further advance the goals of the Comprehensive Plan, as that Plan may be amended from time to time.

(25) DESIGNATION OF HISTORIC LANDMARKS

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.



(a) APPLICABILITY

This Section 375-5(E)(25) applies to all applications to designate a City of Albany landmark or historic district.

(b) PROCEDURE

(i) The Chief Planning Official shall review the application and prepare a staff memorandum and recommendation in accordance with Section 375-5(D)(5).

(ii) Notice of a proposed designation shall be sent by registered mail to the owner of each property proposed for designation or located adjacent to a property proposed for designation, describing the property and announcing a public hearing by the Historic Resources Commission (HRC) to consider the designation. Where the proposed designation involves so many properties that individual notice to affected owners is impractical, notice may instead be published at least twice in a newspaper of general circulation a minimum of 10 days prior to the date of the public hearing. Once the HRC has issued notice of a proposed designation, no building permit for work in the affected area shall be issued by the Commissioner of Buildings and Regulatory Compliance until the

Common Council has approved or disapproved the designation, unless the HRC has reviewed the permit request according to the procedures and criteria for a certificate of appropriateness.

(iii) The HRC shall hold a public hearing before recommending designation of any landmark or historic district. The HRC, owners of affected property and any other interested parties may present testimony or documentary evidence at the hearing regarding the historic, architectural or cultural importance of the proposed landmark or historic district. Such testimony or evidence shall be included in the record of the hearing. The record may also contain staff reports, public comments or other evidence offered outside of the hearing.

(iv) The HRC shall supply the City Clerk's office with a notice and explanation of its recommendation of designation of a landmark or historic district. Such notice shall include a description of each property proposed for landmark designation or the boundaries of each proposed historic district.

(v) The City Clerk shall cause the HRC's recommendation to be presented to the Common Council at its next scheduled meeting.

(vi) After the HRC's recommendation is presented, the Common Council may approve or disapprove the proposed designation of a landmark or historic district.

(vii) Upon Common Council approval of a designation, a list of the landmarks or historic districts designated shall be filed with the City Clerk, the Chief Planning Official, the Chief Building Official, the City Engineer and the Albany County Hall of Records.

(viii) Notice of a designation shall be sent to the owner of each property that is designated or located adjacent to a designated property. Where the designation involves so many properties that individual notice to affected owners is impractical, notice may instead be published at least twice in a newspaper of general circulation.

(c) Review Criteria

(i) For Individual Landmarks

The Historic Resources Commission may recommend designation of an individual property as a landmark if it determines that the property:

A. Possesses special character or historic, aesthetic or archaeological interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;

B. Is identified with historic personages or events significant in local, state, or national history;

C. Embodies the distinguishing characteristics of a cultural period, an architectural style, a period or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship;

D. Is the work of a designer, architect or builder whose work has significantly influenced an age; or

E. Represents an established and familiar visual feature of the neighborhood due to a unique location or singular physical characteristic.

(ii) **FOR A HISTORIC DISTRICT**

The Historic Resources Commission may recommend designation of a group of properties as a historic district if it determines that the area:

A. Contains a majority of the properties that meet one or more of the criteria for designation of a landmark and may have within its boundaries other properties or structures that, while not of such historic or architectural significance to be designated as landmarks, contribute to the overall visual characteristics of the historic resources within the district;

B. Constitutes a significant and distinguishable entity whose components may lack individual distinction;

C. Embodies the distinctive characteristics of a type, period, or method of construction;

D. Portrays the environment of a group of people in an era of history characterized by a distinctive architectural type;

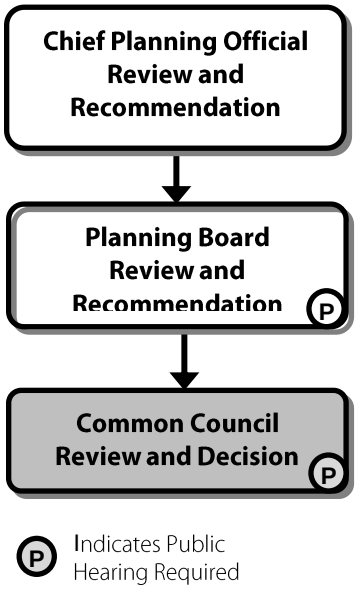
E. Has yielded, or is likely to yield, information important in history or prehistory;

F. Possesses high artistic value; or

G. Has a relationship to designated landmarks or a historic zone which makes the area's preservation critical.

(26) COMPREHENSIVE PLAN AMENDMENT

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.



(a) APPLICABILITY

This describes the process for reviewing and deciding on a proposed amendment to the adopted Comprehensive Plan of the City of Albany. Comprehensive Plan Amendments may only be initiated by the Planning Board or the Common Council.

(b) PROCEDURE

(i) **STAFF REVIEW AND ACTION**

The Chief Planning Official shall review the application and prepare a staff memorandum and recommendation in accordance with Section 375-5(D)(5).

(ii) **PLANNING BOARD REVIEW AND ACTION**

The Planning Board shall review the application, hold a public hearing, and make a recommendation in accordance with Section 375-5(D)(7).

(iii) **COMMON COUNCIL REVIEW AND DECISION**

A. The Common Council shall review the application, hold a public hearing and decide the application in accordance with Section 375-5(D)(10).

B. The decision shall be one of the following:

1. Adopt the amendment as proposed;
2. Adopt a revised amendment that reduces an area proposed to be reclassified;
3. Adopt a revised amendment that reclassifies an area proposed to be reclassified to a more restrictive classification;
4. Adopt a revised amendment other than as included in provisions 2 or 3 above (this may require a new public hearing); or
5. Deny the amendment;

(iv) **POST-DECISION ACTIONS AND LIMITATIONS**

The post-decision actions and limitations in Section 375-5(D)(12) shall apply to the application except as follows:

A. A Comprehensive Plan Amendment does not expire, but shall remain valid unless and until the revised Comprehensive Plan is subsequently amended in accordance with this Section 375-5(E)(26) Comprehensive Plan Amendment.

(c) REVIEW CRITERIA

Amending the Comprehensive Plan is a matter committed to the legislative discretion of the Common Council. In deciding the application, the Common Council may consider and weigh the relevance of and consider whether and the extent to which the proposed amendment is necessary in order to address conditions including, but not limited to, the following:

(i) A change in projections or assumptions from those on which the Comprehensive Plan is based;

(ii) Identification of new issues, needs, or opportunities that are not adequately addressed in the Comprehensive Plan;

(iii) A change in the policies, objectives, principles, or standards governing the physical development of the City or any other geographic areas addressed by the Comprehensive Plan; or

(iv) Identification of errors or omissions in the Comprehensive Plan.

(F) PRE-EXISTING DEVELOPMENT AND NONCONFORMITIES

(1) RESPONSIBILITY OF THE APPLICANT/PROPERTY OWNER

It shall be the applicant and/or property owner's responsibility to provide any and all documentation of evidence required to support a nonconformity claim.

(a) CERTIFICATE

Any person having a legal or equitable interest in a nonconforming property may apply for a certificate of nonconformity from the Chief Planning Official by complying with the

procedure set forth in this section. Upon issuance, a certificate of nonconformity shall be evidence that the use or structure designated therein is a legal nonconforming use or structure at that time.

(b) **EVIDENCE**

(i) Where an application seeks a certificate to establish the legal nonconforming use of a property, the Chief Planning Official may issue or deny such certificate upon receipt of the furnishing of such information and evidence as are needed to prove the following:

A. That the use was lawfully established prior to the effective date of the applicable regulations.

B. That the use has been continuously maintained since it was established.

C. That the use has not been abandoned for a period in excess of one year.

(ii) Evidence may include but is not limited to photographs of the property or use (dated or with an affidavit as to the date of the photograph), utility bills, property tax statements or receipts, copies or leases or subleases, evidence of goods and services rendered from the property (dated or with an affidavit as to the data of the evidence), or notarized affidavits from the owner of property within 300 feet of the subject property.

(iii) Where an application seeks a certificate to establish the legal nonconforming status of a structure or other nonconformity only, the Chief Planning Official may issue or deny such certificate upon review of a certified survey, building permits, or other documentation deemed necessary or sufficient by the Chief Planning Official.

(2) **NONCONFORMING LOTS**

(a) A lot that does not conform to the standards in this USDO for the zoning district in which it is located may nevertheless be used for any use for which a conforming lot may be used, but must comply with all Dimensional Standards in Section 375-4(A), all Form-based Standards in Section 375-4(B), and all other provisions of this USDO applicable to property in that zoning district.

(b) On a nonconforming lot of record, all front and rear yards and setbacks as well as subsequent expansions must conform to zone district yard requirements.

(3) **NONCONFORMING USES**

(a) **CONTINUATION WITHOUT EXPANSION OF STRUCTURE**

Any use existing on or before June 1, 2017 that is in any way nonconforming under this USDO, including operational requirements such as hours of operation, provision of off-street parking spaces, and noise limitations, may continue to be used for the purposes it was used when it became nonconforming, and may be sold to a new owner or operator, and may be expanded into parts of the existing building that it occupies, however the building or parcel of land shall not be enlarged to accommodate any expansion of the nonconforming use.

(b) **HOURS OF OPERATION**

Where this USDO establishes hours of operation that differ from those applicable under prior regulations, permits, or approvals, including without limitation those included in a

Conditional Use Permit or a condition attached to a Use Variance, the provisions of this USDO shall apply, and operations that open earlier or close later shall be considered nonconforming notwithstanding a prior permit or approval from the City authorizing those different hours of operation. If a nonconforming use expands into additional areas within an existing building, as permitted by subsection (a) above, the City may require that the entire use comply with the hours of operation established in this USDO regardless of a prior permit or approval allowing different hours of operation.

(c) REESTABLISHMENT

(i) No nonconforming use may be reestablished after it has been discontinued or vacated for a period of one year or more.

(ii) A property owner may apply to the Chief Planning Official for continuation of legal nonconforming status if the applicant shows that:

A. The discontinuance resulted from circumstances such as death of a property owner, foreclosure or bankruptcy; and

B. Continuous good faith efforts to resume the use have been shown. If discontinuance in use is due to the loss of a tenant, the owner must show that reasonable action to obtain a new tenant has continued such as listing the property with a real estate agent, receipt of good faith offers on a regular basis by interested persons, existence of a telephone number which is available to persons interested in the property and evidence of continuous active marketing efforts such as advertisements in appropriate media and current signage on the property.

(iii) A denial of an application for extension of nonconforming status may be appealed by the property owner to the Board of Zoning Appeals in accordance with Section 375-5(D)(9).

(d) SUBSTITUTION

No nonconforming use may be converted to a different nonconforming use unless the Board of Zoning Appeals determines that the alternative use is in the same or a less intense land use category based on Table 375-3-1(Permitted Use Table).

(e) DAMAGE OR DESTRUCTION

(i) In the event that any structure containing a nonconforming use is damaged or destroyed to the extent of more than 50 percent of the cost of replacement of the structure, as determined by the tax assessor, any reuse of the structure shall conform to all regulations of the zoning district in which it is located per this USDO.

(ii) Where any such structure is damaged or destroyed to the extent of 50 percent or less of the cost of replacement of the structure new, repair or restoration of such structure may be made; to enable continued operation of the nonconforming use, provided that no repairs or restorations shall be made which would create or increase any parking, yard or space and bulk nonconformity, nor shall any repairs or restoration (except in conformity with the applicable zoning district regulations) be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.

(f) REPAIR AND MAINTENANCE

Normal maintenance and repairs, including but not limited to replacement, and installation or relocation of walls, partitions, fixtures, wiring or plumbing, may be performed on mechanical systems or existing portions of any structure devoted in whole or in part to a nonconforming use.

(g) ENLARGEMENT OF STRUCTURE

No structure devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner which would enlarge the nonconforming portion or create a new nonconformity.

(h) MULTIFAMILY DWELLINGS

Any conforming multifamily dwelling use in the R-2 or R-T zoning districts in existence on June 1, 2017 will be considered to be a conforming use of property notwithstanding any provisions of this USDO limiting the availability of multifamily uses or the number of units permitted in the R-2 or R-T districts in the future.

(4) NONCONFORMING STRUCTURES

(a) A nonconforming structure may be continued or sold, and may have normal and necessary maintenance and repairs.

(b) No structural alterations may be made to a nonconforming structure unless those alterations bring the structure into closer compliance with this USDO, as determined by the Chief Planning Official.

(c) In the event of a natural disaster and a nonconforming structure is damaged or destroyed, rebuilding in full compliance with this USDO is not required unless the cost to repair the existing structure exceeds 75 percent of the cost of replacement as determined by the tax assessor. In the R-T district, following such rebuilding each dwelling units in the structure shall have an average minimum size of at least 750 square feet per unit.

(5) NONCONFORMING SIGNS

(a) All signs that have been lawfully erected shall be deemed to be legal and lawful signs and shall be maintained subject to the provisions of this Section.

(b) On-premises signs legally erected before the adoption of this USDO that do not conform to the provisions of Section 375-4(I) may continue to be maintained; however, they shall not be enlarged, increased in height, redesigned or altered in any way, unless to conform to the requirements of this USDO.

(6) NONCONFORMING PARKING OR SITE IMPROVEMENTS

Conforming land uses and structures on parcels or lots that do not comply with one or more of the Parking and Loading standards in Section 375-4(E), the Landscaping, Screening and Buffering standards in Section 375-4(F), or the Outdoor Lighting standards in Section 375-4(H), may be expanded, revised, or redeveloped subject to the following conditions:

(a) The expansion, revision, or redevelopment must be to land uses and structures permitted in the zoning district where the property is located;

(b) The expansion, revision, or redevelopment must not increase any nonconformity with the standards in Section 375-4(F), or Section 375-4(H);

(c) Any expansion or change in land uses that increases the amount of parking required on the property shall require that the net increase in required parking be provided on-site;

(d) Any increase of impervious surface of 10 percent or more on the site shall comply with all standards and criteria in this USDO; and

(e) Any redevelopment of the property that results in the demolition of all or part of an existing primary structure and/or construction of new primary structures shall require that the property be brought into compliance with all applicable requirements of this USDO.

(G) ENFORCEMENT AND PENALTIES

This Section describes the City's powers to enforce the provisions of this USDO provided by law, and includes all enforcement powers available under the regulations in effect prior to the zoning, subdivision, and land use regulations that were replaced by this USDO.

(1) COMPLIANCE REQUIRED

Compliance with all the procedures, standards, and other provisions of this USDO, and with any conditions attached to any permit or approval issued pursuant to this USDO, is required by all persons owning, developing, managing, using, or occupying land or structures in the City.

(2) INSPECTIONS

It shall be the duty of the Chief Building Official to inspect work during the course of construction to ensure compliance. In the event that any such inspection reveals that the work is not being carried out in compliance with the terms and conditions of any permit or approval issued under this USDO, the Chief Building Official shall order the work to cease and may order corrections to be made. In addition, the Chief Building Official may revoke the building permit.

(3) COMPLAINTS OF VIOLATIONS

Any person alleging violation of this USDO may file a complaint in writing with the Chief Planning Official, who shall investigate the same. If reasonable evidence of a violation exists, the Chief Planning Official may then revoke or suspend the permit, issue a notice of violation and an order to cease and desist, or take any other action to prevent a further violation and/or remedy the existing violation authorized by this USDO.

(4) VIOLATIONS AND RESPONSIBLE PARTIES

(a) VIOLATIONS GENERALLY

(i) Failure to Comply with USDO or Term or Condition of Approval

Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this USDO, or the terms or conditions of any development permit, development order, or authorization granted in accordance with this USDO shall constitute a

violation of this USDO, punishable as provided in this Section. Each day a violation continues constitutes a separate violation.

(ii) Development Permits or Approvals Only Authorize Development Approved

Development permits or approvals issued under this USDO authorize only the specific use, arrangement, location, design, density or intensity, and development set forth in such development permit or approval.

(iii) Obtaining Permit or Approval Based on False or Misleading Information

Any development, use, or other activity which is issued a permit or granted an approval based on false or misleading information shall be a violation of this USDO.

(b) SPECIFIC VIOLATIONS

It shall be a violation of this Code to undertake any activity contrary to the provisions of this USDO, including but not limited to any of the following:

(i) Develop land or a structure without first obtaining all appropriate development permits and approvals, and complying with their terms and conditions.

(ii) Occupy or use land or a structure without first obtaining all appropriate development permits and approvals, and complying with their terms and conditions.

(iii) Subdivide land without first obtaining all appropriate development permits and approvals required to engage in subdivision, and complying with their terms and conditions.

(iv) Excavate, grade, cut, clear, or undertake any land disturbing activity without first obtaining all appropriate development permits and approvals, and complying with their terms and conditions.

(v) Remove existing trees from a site or parcel of land without first obtaining appropriate development permits and approvals, and complying with their terms and conditions.

(vi) Disturb any landscaped area or vegetation required by this USDO.

(vii) Install, create, erect, alter, or maintain any sign without first obtaining the appropriate development permits and approvals, and complying with their terms and conditions.

(viii) Fail to remove any sign installed, created, erected, or maintained in violation of this USDO, or for which the relevant development permit or approval has expired.

(ix) Create, expand, replace, or change any nonconformity except in compliance with this USDO.

(x) Reduce or diminish the requirements for development, design, or dimensional standards below the minimum required by this USDO.

(xi) Increase the intensity or density of development, except in accordance with the standards of this USDO.

(xii) Use or operate a business out of a structure without obtaining and maintaining a valid Business Tax Receipt.

(xiii) Demolish, alter, construct, or permit a designated landmark or other building or structure in a historic district to fall into serious disrepair, or to be damaged in a way that increases its likelihood of total failure, without obtaining approval of a Major

Certificate of Appropriateness pursuant to Section 375-5(E)(19) or a Minor Certificate of Appropriateness pursuant to Section 375-5(E)(13), as applicable.

(xiv) Through any act or omission, fail to comply with any other provisions, procedures, or standards as required by this USDO.

(5) GENERAL NUISANCES

(a) Upon the following circumstances, the Board of Zoning Appeals shall hold a public hearing and make a finding with respect to the nuisance or hazardous condition that exists and shall determine the necessity of terminating such nuisance:

(i) A complaint registered by the Chief Planning Official signed by 50 percent of the property owners within 200 feet of a lot or building, or the Common Council member in whose ward such lot or building is situated, that the lot or the use of the property or building is considered to be a general nuisance or a hazard to the health, safety, welfare of uses or structures within 200 feet of such use or uses, or

(ii) Certification of the Chief Building Official that six or more complaints about noise, drunkenness, or disruptive behavior associated with a Restaurant, Bar or Tavern have been received within a 12 month period

(b) Upon such a finding, the use of the property or building shall be terminated for a period of up to two years, or the hours or conditions of operation for any business or activity on the property where the nuisance occurred shall be restricted so as to prevent the nuisance from recurring. The applicant shall be permitted a reasonable time within which to terminate the activity.

(c) If the terminated activity was operating as a nonconforming use, the nonconforming use status shall be lost by any termination due to a finding of nuisance. If the terminated activity is one that is required to have a Conditional Use Permit in Table 375-3-1 (Permitted Use Table), then the use may not resume before a Conditional Use Permit is obtained.

(d) In addition to the specific provisions in this Section 375-5(G)(5), the Board of Zoning Appeals shall retain all powers available to it under this USDO or state law.

(6) REMEDIES AND PENALTIES

(a) DENY OR WITHHOLD PERMITS AND APPROVALS

(i) The Chief Planning Official or Chief Building Official may deny or withhold all permits and approvals, including building permits, certificates of occupancy, business licenses, or other forms of authorization to use or develop any land, structure, or improvements, until an alleged violation, associated civil penalty, and/or lien resulting from a previous final order related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit or other approval is responsible for the violation.

(ii) If the City determines that a designated landmark or other building or structure within an historic district has been demolished in violation of this USDO, the Chief Planning Official may withhold all permits and approvals for the subject property for a period of two years from the date of the completion of the improper demolition.

(b) REVOKE PERMITS AND APPROVALS

(i) Any permit or other form of approval required under this USDO may be revoked, after notice and a hearing, when the Chief Planning Official determines that:

A. There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement;

B. The entitlement was procured by false representation;

C. The entitlement was issued in error; or

D. There is a violation of any provision of this USDO.

(ii) Written notice of revocation shall be served upon the property owner, agent, applicant, or other person to whom the entitlement was issued, including the reasons for the revocation, or such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice.

(iii) Issuance of a permit under this USDO does not authorize violation of any other code or ordinance of the City.

(c) STOP-WORK ORDERS

(i) Whenever any building, structure, site, or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, in substantial violation of any state or local building law, or in a manner that endangers life or property, the Chief Planning Official or the Chief Building Official has the authority to issue a stop-work order for the specific part of the work that is in violation or presents the hazard.

(ii) With or without revoking permits, the Chief Planning Official or Chief Building Official may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this USDO or a provision of an approval or other form of authorization issued under this USDO.

(iii) The stop-work order shall be in writing and directed to the person doing the work, and shall specify the provisions of this USDO or other law allegedly in violation. After any such order has been served, no work shall proceed on any building, structure, or tract of land covered by such order, except to correct such violation or comply with the order.

(iv) Once conditions for resumption of the work have been met, the Chief Planning Official or Chief Building Official shall rescind the stop-work order.

(d) CRIMINAL AND CIVIL PENALTIES

(i) Any convictions of violating or assisting in the violation of this USDO shall be punishable by a fine not to exceed $1,000 or by imprisonment not to exceed 15 days, or both, for each offense. Each day that a violation is continued uncorrected or resumed, after the violator is notified, shall constitute a separate offense.

(ii) Violation of any provision of this USDO, or any amendments to it, shall also subject the offender to a civil monetary penalty in an amount to be established by the Common Council. If the offender fails to pay this penalty within 15 days after being cited for a violation, the penalty may be recovered by the City in a civil action in the nature of a

debt. A civil penalty may not be appealed if the offender was sent a final notice of violation in accordance with this Section and did not take an appeal to the City within 20 days of the date of such final notice.

(e) RESTORATION OF THE PROPERTY

If the City determines that there has been a violation of the standards and requirements of Section 375-2(F)(1) (HR-O Historic Resources Overlay), any Major or Minor Certificate of Appropriateness issued under Sections Section 375-5(E)(13) or Section 375-5(E)(19) or any Demolition Review issued under Section 375-5(E)(17), the City may require the property owner to restore the property to its appearance prior to the violation.

(f) ABATEMENT

The City may abate the violation through the following process.

(i) Before action is taken to abate a violation, a final warning notice shall be posted on the property and served personally or by certified mail with return receipt required to the property owner.

(ii) Unless this notice is appealed to the Common Council within ten days of the delivery of the final warning, the Chief Planning Official or Chief Building Official shall proceed to abate the violation.

(iii) The Chief Planning Official or Chief Building Official shall keep an account of the cost, including incidental expenses, incurred by the City in the abatement of any violation. The Chief Planning Official or Chief Building Official shall forward a bill for collection to the violator and the property owner specifying the nature and costs of the work performed. For purposes of this Section, the term "incidental expenses" shall include, but not be limited to, the actual expenses and costs to the City in the preparation of the notices, specifications and contracts, work inspection, and interest from the date of completion at the rate prescribed by law for delinquent real property taxes.

(iv) The responsibility for payment of the charges for abatement as set forth in this Section shall rest solely upon the owners of the property upon which the abatement occurred. Such charges shall become a lien upon the real property upon which the violation was located. When charges for abatement remain unpaid after 30 days from billing, the Chief Planning Official or Chief Building Official shall record a claim of lien at the City Clerk and Recorder's office. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state or municipal property taxes, with which it shall be upon a parity. The lien shall continue until the charges and all interest due and payable thereon are paid.

Section 375-6 DEFINITIONS AND RULES OF CONSTRUCTION

(A) RULES OF CONSTRUCTION AND CALCULATION

(1) When used in this chapter as well as throughout the text, the following words shall have these meanings.

(2) Where definitions are divided into classifications or categories of activities or uses, each classification or category shall be considered a different activity or use requiring separate application of the provisions of this chapter.

(3) Whenever the application of a standard or provision in this USDO to a development application results in a fraction of a whole number, fractions less than 0.5 shall be rounded down to the next whole number, and fractions of 0.5 or greater shall be rounded up to the next whole number.

(4) Words, phrases, and terms not defined in this USDO shall have the definitions of those words, phrases, and terms in the latest draft of the International Building Code and/or International Residential Code, as adopted by the State of New York, if such a definition exists.

(B) DEFINITIONS

ABUT OR ADJOIN

To share a common lot line or zone lot line.

ACCESSORY DWELLING UNIT

A residential unit that is located on the same lot as a single-family dwelling unit, either internal to or attached to the single-family unit or in a detached structure. The accessory dwelling unit is a complete housekeeping unit with a shared or separate entrance, and separate kitchen, sleeping area, closet space, and sanitation facilities.

ACCESSORY USE OR STRUCTURE

A structure or use that:

1. Is subordinate to and serves a principal building or principal use;
2. Is subordinate in area, extent and purpose to the principal structure or principal use served;
3. Contributes to the comfort, convenience and/or necessity of the occupants; and
4. Is located on the same lot as the principal structure or principal use served, except as otherwise expressly authorized by provisions stated in this USDO.

ADJACENT

For purposes of historic resource regulations, a property that is physically abutting an historic district or a landmark; directly or diagonally across the street from an historic district boundary or a landmark. In those cases where the historic district boundary is drawn through a portion of a block along the side lot

lines, the properties which continue on the remainder of the block to the next cross street will be considered "adjacent." Also defined as sharing a zone lot line or being separated only by an alley.

ADMINISTRATIVE ADJUSTMENT

A development approval authorizing limited deviations from certain of this USDO's dimensional or development standards as described in Section 375-5(D)(5)(e) (Staff Approval of Administrative Adjustments).

ADMINISTRATIVE MANUAL

A manual containing details on the mechanics of the development review process, information for potential applicants, fee schedules, design standards, and development review application forms.

ADULT ENTERTAINMENT

An establishment consisting of, including, or having the characteristics of any or all of the following :

Adult Cabaret

An establishment devoted to adult entertainment either with or without a liquor license, presenting material distinguished or characterized by its emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas. A cabaret that features topless dancers, go-go dancers, strippers, male or female impersonators or similar entertainers for observation by patrons.

Adult Motion Picture

An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.

ADULT RETAIL

An establishment having as a substantial or significant portion of its stock-in-trade instruments, devices, materials or paraphernalia, other than prophylactics, that are designed for use in connection with specified sexual activities, books, magazines, publications, tapes or films that are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.

AGRICULTURE, URBAN

The raising, keeping or production of fruit, vegetable, flower, and other crops; composting; and the processing of those agricultural products, on sites of three acres or less, but not including backyard gardens, abattoirs, commercial feedlots, and stockyards. This uses includes the ordinary accessory uses and structures for preparing, treating, and storing agricultural products, equipment and machinery, but does not include fat rendering, meatpacking, or tanning, cutting curing, cleaning or storing of green hides or skins, slaughtering or meatpacking of animals not raised on the premises, poultry dressing of animals not raised on the premises.

ALBANY-COLONIE OVERLAY DEFINITIONS

The following definitions are the only definitions applicable in the Albany-Colonie Overlay zoning district.

Health Clubs/ Indoor Recreation
An establishment that offers facilities, equipment and programs for exercise, weight loss and/or body development provided that, in order to be within the scope of this definition, any such use that requires a license to operate must demonstrate that it has or is qualified to obtain such a license. Food items may be offered. Outdoor athletic courts and facilities are permitted and may be included with a health club and/or indoor recreation use.

Height
The vertical distance from the average ground level of the foundation of the building or structure to the highest point of the roof, unless otherwise specified herein, provided that chimneys, spires, towers, elevators, penthouses, tanks, HVAC, and similar projections shall be excluded from such calculation.

Hotel
A building in which lodging is provided and offered to the public, which is customarily open to transient guests, and which may include ancillary facilities and services such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities. A hotel unit may contain a kitchen for extended stay lodgings. Outdoor athletic courts and other outdoor facilities are permitted and may be included with a hotel use.

Offices
Any building or part of a building where the principal use is the operation of a business, administrative, governmental, public utility, sales, professional, or other business or services.

Multi-Level Parking Structures
A structure used for parking or temporary storage of motor vehicles on more than one floor.

Residential Use
The use of all or a portion of a building or structure arranged, intended or designed to be occupied by three or more resident households living independently of each other. An apartment building and multiple or multifamily dwellings are the same type of structure. Residential use shall include owner-occupancy or for rent.

Restaurant
A building or structure or portion thereof, arranged, intended or designed for the preparation and service of meals at tables or counters. A restaurant shall include banquet halls.

Retail
Establishments engaged in the sale of goods, merchandise and services to the public and rendering services incidental to the sale of such goods.

Theater
A building or space, or portion thereof, used for cultural education and experiences, motion pictures, live productions, or other entertainment, including, but not limited to, museums, art galleries, aquariums, amphitheaters, theaters, cultural entertainment facilities and performance halls.

ALLEY
A public or private right-of-way generally designed to provide a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

ALTERATION
1. Generally, a modification of or addition to a structure other than normal maintenance or repairs.
2. For purposes of historic resource regulations, any act or process, other than demolition or preventative maintenance, that changes the exterior appearance of significant historical or architectural features, or the historic context of a designated landmark, including, but not limited to, exterior changes, additions, new construction, erection, reconstruction, or removal of the building or structure, or grading.

ALTERNATIVE ENERGY GENERATING EQUIPMENT OR FACILITY
Equipment for the collection of solar, wind, or geothermal energy or its conversion to electrical energy for use on the same property or nearby properties, or for incidental sale to a public utility, when that equipment is accessory to a principal use of the property.

AMENDMENT TO USDO TEXT
A change to the text of this USDO, reviewed and decided by the Common Council under Section 375-5(E)(23).

AMENDMENT TO ZONING MAP
A change to the official Zoning Map, reviewed and decided by the Common Council under Section 375-5(E)(23).

ANTENNA
Any apparatus outside of a structure for sending and/or receiving electromagnetic waves.

APPEAL
For purposes of the Floodplain Overlay (FP-O), a request for a review of the local administrator's interpretation of any provision of Section 375-2(F)(3) or a request for a floodplain variance.

APPLICANT
A person who submits a development application requesting a development permit or approval authorized by this USDO.

ARCADE
A gallery that has habitable space on the second story.

ARCHAEOLOGICAL SITE
Any archaeological site on, or eligible for inclusion on, the National Register of Historic Places, or any site that contains archaeological objects and the contextual associations of the archaeological objects, located on land, including, but not limited to, submerged and submersible lands, and the bed of any river, creek, or streamlet within the City's jurisdiction. Examples of archaeological sites include, but are not limited to: lithic quarries, camps, burial sites, lithic scatters, fortifications, house sites, and road beds.

ARCHITECTURAL FEATURE

A feature contributing to the general arrangement of the exterior of a structure, including but not limited to, the surface texture, building materials, roof shape, eaves, awnings, arcades, pilasters, cornices, wall offsets, and other building articulations.

ARCHITECTURAL SIGNIFICANCE

The quality of a building or structure based on its date of erection, style and scarcity of same, quality of design, present condition and appearance or other characteristics that embody the distinctive characteristics of a type, period or method of construction.

AREA OF DISTURBANCE

An area in which the natural vegetative soil cover has been removed or altered and, therefore, is susceptible to erosion.

AREA OF SHALLOW FLOODING

For purposes of the Floodplain Overlay (FP-O), a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average annual depth of one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD

For purposes of the Floodplain Overlay (FP-O), the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the "base floodplain" or "100-year floodplain." For purposes of Section 375-2(F)(3), the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

AREA MEDIAN INCOME (AMI)

Income limits established by HUD based on family size and the percentage of the area's income defined as "extremely low income" (30% of area median income), "very low income" (50% of area median income), and "low-income" (80% of area median income).

ARTISAN MANUFACTURING

Application, teaching, making, or fabrication of crafts or products by an artist, artisan or craftsperson either by hand or with minimal automation and may include direct sales to consumers from the same location. This definition includes uses such as small-scale fabrication, manufacturing, and other industrial uses and processes typically not permitted in non-industrial zoning districts such as welding and sculpting, as well as small volume production of craft alcohol as defined by the State of New York, as amended from time to time with a 100,000 gallon production cap.

ASSISTED LIVING FACILITY

A residential establishment or institution other than a hospital that provides living accommodations and medical services primarily to individuals who, due to illness or disability, require assistance with medical care or daily living functions. Services like transportation, housekeeping, dietary supervision, and recreational activities may also be offered. This use also includes any establishment licensed by the State

of New York that provides twenty-four-hour skilled nursing services to elderly and handicapped residents.

ATTIC
That portion of a building between the ceiling of the top full story and the roof and not used for living purposes.

AUCTION HOUSE
A place where the property of others, such as objects of art, furniture, and other goods (except livestock), are offered by a broker or auctioneer for sale to persons who bid on the items in competition with each other at scheduled sales periods or events.

AUDITORIUM
A hall or seating area, generally enclosed, where an audience views a musical or theatrical performance, concert, or other entertainment event.

AUTOMOBILE WASH
Any building or premises, or portion or a building or premises, devoted to the business of washing automobiles, whether by automated or manual means.

AWNING
A cloth or vinyl rooflike cover extending over or in front of a place as a shelter.

BALCONY
An open habitable portion of an upper floor extending beyond a building's exterior wall that is not supported from below by vertical columns or piers but is instead supported by either a cantilever or brackets.

BANQUET FACILITY
A building or part of a building in which the principal function is hosting special occasion events, parties, banquets, receptions, that serves food and drink prepared elsewhere to groups of people on the premises, but that does not meet the definition of a bar or tavern. This use may have facilities for refrigeration or heating of food, but generally does not have facilities to prepare the food it serves on the premises.

BAR OR TAVERN
An establishment where alcoholic beverages are sold to be consumed on the premises, and where the any sale of food is secondary to the sale of alcoholic beverages. This definition includes but is not limited to a bar, grill, saloon, pub, public house, beer garden, brewpub, or similar establishment, but does not include a banquet facility.

BASE FLOOD OR 100 YEAR FLOOD
For purposes of the Floodplain Overlay (FP-O), the flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT

1. For purposes of the Floodplain Overlay (FP-O), that portion of a building having its floor subgrade (below ground level) on all sides.
2. For all other purposes, a floor area of a building where the finished grade of the floor is less than four feet below the average grade along the front of the building. It shall be considered a story whether occupied or not.

BAY WINDOW

A window structure that projects from the wall of a building.

BED AND BREAKFAST

A residential lodging facility typically occupying a structure initially constructed as a single-family or two-family dwelling offering bedrooms without a kitchen, but may include kitchen privileges, and housing transient guests for periods not to exceed 14 consecutive days, serving breakfast and providing one paved, off-street parking space per available bedroom.

BLUE ROOF

A non-vegetated roof design that is intended to detain rainfall or snowmelt, typically to manage stormwater or store and reuse water. See also Green Roof.

BOARD OF ZONING APPEALS

See Section 375-5(C)(4).

BOAT LAUNCH

A sloping platform, ramp, walkway, or driveway for launching small pleasure craft or fishing boats into the water.

BUFFERING

Whenever this term is used, it shall refer to any landscaping, screening, buffering, fencing or other barrier as required by this USDO or through development plan review.

BUILD-TO LINE

A build-to line is the setback from a right-of-way that the building's principal façade shall be built to.

BUILD-TO ZONE

A build-to zone is a range of allowable distances from a street right-of-way that the building's principal façade shall be built to in order to create a moderately uniform line of buildings along the street.

BUILDING

1. For purposes of the Floodplain Overlay (FP-O), a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
2. For all other purposes, any structure having a roof supported by columns or walls, either wholly or partially enclosed within exterior walls or within exterior or party walls, intended to be used for the shelter or enclosure of persons, animals or property.

BUILDING CODE
The current New York State Uniform Fire Prevention and Building Code.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS
A solar energy system that consists of integrating photovoltaic modules into the building envelope, such as the roof or the façade.

BUILDING PERMIT
An official document or certification that is issued by the Chief Building Official pursuant to the Building Code and authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure as being in compliance with Building Code standards. See Section 375-5(E)(1).

CABARET
Any room, place or space in the City in which any musical entertainment, singing, dancing or other form of entertainment is permitted in connection with a catering establishment, tavern or restaurant business or an establishment directly or indirectly selling to the public food or drink, except eating or drinking places that provide incidental musical entertainment performed by fewer than three people with no amplification, or through a central audio system, including the use of a jukebox. Cabaret shall also include:

1. A membership corporation, club, association or society that permits musical entertainment, singing, dancing or other form of entertainment in premises wherein food or drink is directly or indirectly sold to its members, or their guests, or to the public;
2. A premises owned or occupied by a religious or educational institution that permits musical entertainment, singing, dancing or other forms of entertainment in said premises that do not coincide with a religious or educational service or do not arise directly from the eleemosynary purposes of such institution; or
3. A ship, boat or barge moored or tied to a dock, pier or shore and that contains a cabaret in use while so moored or tied.

CANOPY
A permanent, roof-like shelter that extends from part or all of a building face and is constructed of non-rigid material, except for the supporting framework.

CAP
A cap is the protective top layer of a masonry structure exposed to weather from above, such as a wall, parapet, or chimney.

CELLAR
1. For purposes of the Floodplain Overlay (FP-O), that portion of a building having its floor subgrade (below ground level) on all sides.
2. For all other purposes, a floor area of a building where the finished grade of the floor is four feet or greater below the average grade along the front of a building. It shall not be considered a story; whether occupied or not.

CEMETERY
An area of land and related facilities used for the interment of the dead. This definition includes columbaria and mausoleums.

CERTIFICATE OF APPROPRIATENESS
A certificate issued by the Historic Resources Commission to permit construction, alteration, or modification or other actions to or near a landmark structure or a structure in a historic district, See Section 375-5(E)(13) (Minor Certificate of Appropriateness) and Section 375-5(E)(19) (Major Certificate of Appropriateness).

CERTIFICATE OF OCCUPANCY
A document issued by the Chief Building Official pursuant to the Building Code that allows the occupancy and use of building(s) and structure(s) and certifying that said building(s) and structure(s) and use(s) have been constructed and will be used in compliance with all applicable municipal codes.

CHAINLINK FENCING
A fence composed of wire mesh, typically forming "woven diamonds" approximately two inches in width.

CHARACTER
For purposes of historic resource regulations, this term is defined by form, proportion, structure, plan, style or material. General character refers to ideas of design and construction such as basic plan or form. Specific character refers to precise ways of combining particular kinds of materials.

CHIEF BUILDING OFFICIAL
The person so designated by the Mayor, which is generally the Commissioner of Buildings and Regulatory Compliance, or in the absence of such Commissioner the Director of the Department of Buildings and Regulatory Compliance. See Section 375-5(C)(1)(c).

CHIEF PLANNING OFFICIAL
The person so designated by the Mayor, which is generally the Commissioner of Planning and Development, or in the absence of such Commissioner the Director of Planning and Development. See Section 375-5(C)(1)(b).

CHIMNEY
A vertical structure attached to a building that contains a flue for drawing off smoke from a furnace, water heater, or fireplace.

CITY
The City of Albany, New York.

CITY ENGINEER
See Section 375-5(C)(1)(e)

CITY OF ALBANY COMPREHENSIVE PLAN
The Comprehensive Plan of the City of Albany, including elements or portions thereof, as adopted and amended by Common Council.

CLEAR-CUTTING
The cutting or removal of trees or other vegetation where more than 50 percent of the existing trees or vegetation per acre is removed over any five-year cutting cycle.

CLUB
A facility operated by a corporation, association or group of people for the social, educational or recreational intent of the dues-paying members and their guests, but not primarily for profit nor to render a service that customarily is carried on as a business. This definition includes lodges as defined herein.

CLUSTER DEVELOPMENT
A planned development in which lots are plotted that have less than the minimum lot size and setback requirements but that have access to common open space that is part of the overall development plan approved by the Planning Board. However, not more than the maximum density of dwelling units permitted by this chapter shall be allowed.

COMBINED SEWER
A sewer designed to receive and transport both surface runoff and sewage.

COMMISSIONER OF GENERAL SERVICES
See Section 375-5(C)(1)(d).

COMMON COUNCIL
The elected legislative governing body of the City of Albany. See Section 375-5(C)(5).

COMMUNITY CENTER
A not-for-profit or publicly owned facility providing recreational programs and meeting rooms that are open to the public and designed to accommodate and serve significant segments of the community.

COMMUNITY RESIDENTIAL FACILITY
Any building, structure, home, facility or place operated by person(s) other than the residents themselves, in which persons reside for a period of more than 24 hours, and that is used or intended to be used for the purpose of letting rooms, providing meals and/or providing personal assistance, personal services, personal care and protective care to persons meeting the definition of a handicapped person or another person protected against housing discrimination under the federal Fair Housing Act and court decisions interpreting that Act. For purposes of this definition, the term handicapped does not include persons currently using or addicted to alcohol or controlled substances who are not in a recognized recovery program, nor shall it include half-way houses for individuals in the criminal justice system, or residential facilities to divert persons from the criminal justice system.

COMPOSTING BIN

A structure that allows the process of accelerated biodegradation and stabilization of organic material under controlled conditions to yield a product that can safely be used to enrich soil nutrients.

COMPREHENSIVE PLAN

That comprehensive plan for the City of Albany, titled Albany 2030, approved by the Common Council, as amended or replaced by action of the Common Council from time to time.

COMPREHENSIVE PLAN AMENDMENT

A change to the text of the Comprehensive Plan, or to its land use classifications of land, reviewed and decided by the Common Council. See Section 375-5(E)(26).

CONDITIONAL USE

A use in Table 375-3-1: Permitted Use Table designated with a "C," requiring a Conditional Use Permit for approval.

CONDITIONAL USE PERMIT

An authorization of a particular land use which is permitted in a zoning ordinance or local law, subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met. See NYS General City Law §27-b and §375-5(E)(15) of this USDO.

CONFORMING USE

Any lawful use of a building, structure, or parcel of land that complies with the provisions of this USDO.

CONSTRUCTION

Building an addition to an existing structure, building a new principal or accessory structure, or any ground disturbance associated with conducting or preparing for those activities, including installation of utilities and/or construction of parking facilities.

CONTEXTUAL

Relating to buildings and development in the nearby or surrounding area or block face. Several development standards in this USDO vary to allow new development, buildings and additions and modifications to buildings to be similar to the height, size, width, separation, and location of development and buildings in the nearby or surrounding area.

CONTRACTOR SHOP AND YARD

A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor. This definition includes architects, engineers, surveyors' construction offices and shops, real estate sign placement service, and showroom and shops for the display and sale of electrical, plumbing, heating, air conditioning, sheet metal and other material in connection with contracting services.

CONTROLLED SUBSTANCE DISPENSARY

A business that is registered to operate in the State of New York that sells or otherwise distributed drugs, goods, or materials that are listed as Controlled Substances under the federal Controlled

Substances Act of the New York State Public Health Law to persons, and under conditions, authorized by the State of New York. This use includes a Marijuana Dispensary and a Methadone Dispensary.

CORNER LOT

A platted lot with frontage on two public or approved private street rights-of-way that intersect at a corner point of that lot.

CORNICES

A horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang.

CORPORATION COUNSEL

The legal department of the City of Albany.

CRAWL SPACE

For purposes of the Floodplain Overlay (FP-O), an enclosed area beneath the lowest elevated floor, 18 inches or more in height, that is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces that would be experienced during periods of flooding.

CRITICAL FACILITIES

For purposes of the Floodplain Overlay (FP-O):

1. Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;
2. Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
3. Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
4. Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

CULTURAL FACILITY

An establishment used for the purposes of preserving, exhibiting, demonstrating or interpreting art, history, culture or nature or scientific objects or ideas. Cultural facilities shall be interpreted to include, but not be limited to, museums, libraries, zoos, art galleries, aquariums, planetarium, botanical gardens and nature centers.

CUMULATIVE SUBSTANTIAL IMPROVEMENT

For purposes of the Floodplain Overlay (FP-O), any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50% of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

CUSTOMARY ACCESSORY USE AND RELATED STRUCTURES

A use of land or use of a structure, together with that structure, that is incidental and subordinate to a principal use of land or an approved conditional use of land on the same lot, and that is customarily or frequently found in connection with that primary or accessory use, as determined by the Chief Planning Official, that is not listed separately in Table 375-3-1 (Permitted Use Table).

DAY CARE CENTER

A facility providing supervised care, pre-school, and/or activities outside a family home to three or more individuals for more than three hours a day. Any facility providing daycare for three or more children must be licensed by the New York State Office of Children and Family Services.

DAY CARE HOME

A program providing day care to no more than the maximum number of individuals allowed under the New York State Social Services Law in a family home occupied as a residence. The daycare provider is not required to reside in the house, as long as someone occupies it as a dwelling. Any daycare program to which this definition does not apply in every respect shall be considered a daycare center. Any facility providing day care for three or more children must be licensed by or registered with the New York State Office of Children and Family Services.

DELIVERY SERVICE

Any business supplying delivery service via company or employee vehicles.

DEMOLITION

Any intentional defacement, destruction, and/or other action that would cause partial or total destruction of the physical elements of a structure.

DEMOLITION REVIEW

See Section 375-5(E)(17).

DESIGN CAPACITY OR OCCUPANCY

The maximum number of people that the Fire Code will allow to occupy a structure.

DESIGNATION OF HISTORIC LANDMARKS

See Section 375-5(E)(25).

DEVELOPER

Any person, including a governmental agency, undertaking development.

DEVELOPMENT

1. For purposes of the Floodplain Overlay (FP-O), any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.
2. For all other purposes, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, any mining, excavation, landfill or land disturbance, or any change in use, or alteration or extension of the use, of land.

DEVELOPMENT PLAN
A plan (to scale) showing uses and structures proposed for a lot. A Development Plan is referred to as a "Site Plan" in New York State General City Law.

DEVELOPMENT PLAN REVIEW
See Section 375-5(E)(3).

DIMENTIONAL STANDARD
The lot area, lot width, setback, build-to line, floor area, floor area ratio, standards, and impervious coverage standards applicable to a development, area, or zone district.

DISPATCH SERVICES OR TRUCK FRIEGHT TERMINAL
A building or a portion of a building from which vehicles are dispatched to perform services including, but not limited to, couriers, deliveries, security services, locksmiths, caterers, and taxis. This use also includes an area or building where trucks load and unload cargo and freight that may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation. The terminal facility may include storage areas for trucks and buildings or areas for the repair of trucks associated with the terminal.

DISTRICT
A portion of the City of Albany within which certain regulations and requirements apply under the provisions of this chapter.

DORMITORY
A publicly or privately owned and operated building devoted exclusively to living facilities and associated programming, in which each person residing in each living unit shall be a duly registered student in any accredited school, college, or university, the spouse of such student, or a management employee, or an employee or trainee of a medical or technical institution. The facilities may contain sleeping rooms for use of one or more persons, provided that there is at least 150 square feet of floor space for the first occupant and at least 100 additional square feet of floor space for every additional occupant, the floor space to be calculated on the basis of total habitable room area. Accessory uses may include food preparation facilities, exercise facilities, and meeting rooms.

DRIVE-IN OR DRIVE-THROUGH FACILITY
A use that, by design of facilities or procedures, encourages or permits customers to receive service, or obtain products while remaining in their vehicle, and/or a portion of an establishment or service that allows a customer to receive a product or service without leaving their vehicle.

DRIVEWAY
A vehicular access way providing ingress and egress to a use or development from a public street, private street, or vehicular use area associated with another use.

DWELLING, LIVE-WORK
A residential dwelling unit that includes a dedicated work space that is accessible from the living area or from the outside, reserved for and regularly used by one or more residents of the dwelling unit, and in

which the type or size of the work performed is larger or more extensive than that permitted as a home occupation.

DWELLING, MULTI-FAMILY

A building containing three or more dwelling units located side-to-side, or above-and-below, and accessed by common hallways or walkways, that does not meet the definition of a Dwelling, Townhouse.

DWELLING, SINGLE-FAMILY DETACHED

A detached building, designated for or occupied exclusively by one household and containing not more than one primary dwelling unit.

DWELLING, TOWNHOUSE

A dwelling structure containing three or fewer dwelling units, constructed side-by-side with another dwelling structure, and either (1) connected by vertical walls that extend from grade level or below to the top of the structure, or (2) separated from a similar structure on an adjacent lot by no more than four feet between the two dwelling structure's sidewalls, each of which has entrances to its dwelling unit(s) from outside on the ground or first floor, whether located on a single lot or on individual lots.

DWELLING, TWO-FAMILY DETACHED

A detached or semidetached building with not more than two dwelling units that are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common hallway or cellar. Side-by-side or duplex dwellings are considered a "two-family dwelling" regardless of individual ownership of either half of its structure, provided that they are on the same zoned lot of record.

DWELLING STRUCTURE

A detached or attached building designated for residential occupancy and containing one or more primary dwelling units.

DWELLING UNIT

One or more rooms, including a kitchen or kitchenette, and sanitary facilities in a dwelling structure, designed as a unit for occupancy by not more than one family for living and sleeping purposes.

EAVES

The projecting lower edges of a roof that overhangs the wall of a building.

ELECTRIC VEHICLE CHARGING STATION

A facility or area at which electric powered or hybrid powered motor vehicles can obtain electrical current to recharge batteries, when accessory to a principal use of the property.

ELEVATED BUILDING

For purposes of the Floodplain Overlay (FP-O), a nonbasement building i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor or, in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and

piers), or shear walls parallel to the flow of the water, and ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

ENCROACHMENT

The extension or placement of any structure, or a component of such, into a required setback or right-of-way.

EXCAVATION

Any act by which earth, sand, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.

EXPLORATION

Geologic or geophysical activities related to the search for natural gas or other subsurface hydrocarbons, including prospecting, geophysical and geologic seismic surveying and sampling techniques, that include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas deposits.

EXPRESSION LINE

A horizontal line, expressed by a material change or by a continuous projection not less than two inches nor more than one foot deep.

EXTENSION

A wall or other structure which is connected to, and extended from a building.

EXTERIOR

The architectural style, design, general arrangement and components of the outer surfaces of an improvement, as distinguished from the interior surfaces enclosed by said outer surfaces, including but not limited to the kind or texture of building materials and the type and style of windows, doors, lights, signs, sidewalks, landscaping and other such exterior fixtures.

EXTERIOR FURNACE DEVICE

Any contrivance, apparatus or part thereof, including a boiler, fire box, exchanger, grate, fuel gun, fuel nozzle, chimney, smoke pipe, exhaust conduit and like devices used for the burning of combustible fuels for the creation of heat or energy from an exterior location into an interior location.

EXTERIOR WALL

Any wall that defines the exterior boundaries of a building or structure.

FAMILY

Shall mean:

1. One, two or three persons occupying a dwelling unit (related or unrelated); or

2. Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.
3. Four or more persons occupying a dwelling unit whose right to live together is protected by the federal Fair Housing Act, as amended and interpreted by the courts.

It shall be presumptive evidence that four or more unrelated persons living in a single dwelling unit do not constitute the functional equivalent of a traditional "family."

FARMER'S MARKET

An area, which may or may not be in a completely enclosed building, where, on designated days and times, groups of individual sellers, such as growers of horticultural and agricultural products, artisans of craft products, and food and beverage providers, offer these items for sale, directly to the public, from on-site booths.

FEATURE

For purposes of historic resource regulations, elements embodying the historical significance or architectural style, design, general arrangement and components of all of the exterior surfaces of any landmark or historic resource, including, but not limited to, the type of building materials, and type and style of windows, doors, or other elements related to such landmark or historic resource.

FEDERAL EMERGENCY MANAGEMENT AGENCY

The federal agency that administers the National Flood Insurance Program.

FENCE OR WALL

An artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas of land.

FILL

Any act by which earth, sand, gravel, rock or any other similar material is deposited, placed, pushed, pulled or transported to a place other than the place from which it was excavated, and shall include the conditions resulting therefrom.

FLOOD OR FLOODING

For purposes of the Floodplain Overlay (FP-O):

1. A general and temporary condition of partial or complete inundation of normally dry land areas from
   a. The overflow of inland or tidal waters;
   b. The unusual and rapid accumulation or runoff of surface waters from any source.
2. "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event that results in flooding as defined in Subsection 1.a above.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)

For purposes of the Floodplain Overlay (FP-O), an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY OR FLOOD INSURANCE STUDY

For purposes of the Floodplain Overlay (FP-O), an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM)

For purposes of the Floodplain Overlay (FP-O), an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM)

For purposes of the Floodplain Overlay (FP-O), an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOODPLAIN OR FLOOD-PRONE AREA

For purposes of the Floodplain Overlay (FP-O), any land area susceptible to being inundated by water from any source (see the definition of "flood or flooding.")

FLOODPLAIN DEVELOPMENT PERMIT

See Section 375-5(E)(6).

FLOODPROOFING

For purposes of the Floodplain Overlay (FP-O), any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY OR REGULATORY FLOODWAY

For purposes of the Floodplain Overlay (FP-O), the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 375-157.

FLOOR AREA, GROSS

The total gross area of all stories of a structure, as defined by the exterior walls.

FRONTAGE

The limiting front lot line on a street, or on a corner lot in which case frontage is along both streets.

FRONTAGE BUILD-OUT

Frontage build-out is the percentage of the width of a lot that is required to be occupied by its building's primary façade. Up to 50 percent of the width of the primary façade may be counted as meeting the frontage percentage requirement even though it may be set back up to 10 feet farther from the lot line than the primary façade's principal plane. The location of the primary façade's principal plane is not changed by façade extensions such as bay windows, awnings, porches, balconies, stoops, colonnades, or arcades, or by upper stories that are closer to or farther from the lot line.

FRONTAGE ELEMENTS

For purposes of form-based zoning controls, building elements that are located in the area between the primary façade and the lot line. Frontage elements may occur forward of the build-to zone or setback. In some instances, such as galleries, arcades, and shopfronts may encroach into the right-of-way barring any restrictions by the public entity that has control over the public right-of-way.

FUNCTIONALLY DEPENDENT USE

For purposes of the Floodplain Overlay (FP-O), a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

FUNERAL HOME OR CREMATORIUM

A building used by a professional licensed mortician for burial preparation or where funeral services are held; or a building with a furnace for cremating dead bodies, either animal or human.

GALLERY

For purposes of form-based zoning controls, a frontage element typically used in Retail applications where the façade is aligned close to the frontage Line with an attached cantilevered shed or a lightweight colonnade overlapping the sidewalk, with no enclosed habitable space above.

GARAGE SALE

A garage, porch, lawn or estate sale herein is defined as the sale(s) of new and/or used goods open to the public either by announcement, invitation or roadside advertisement.

GENERAL CITY LAW

The General City Law of the State of New York.

GRADE, FINISHED

Natural surface of the ground or surface of ground after completion of any change in contour, abutting building or premises.

GRADING

Altering surfaces to specified elevations, dimensions, and/or slopes; includes stripping, cutting, filling, stockpiling and shaping or any combination thereof. An excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

GREEN
A green is an open space consisting of lawn and informally arranged trees and shrubs, typically furnished with paths, benches, and open shelters. Greens are spatially defined by abutting streets.

GREEN ROOF
A vegetated roof design that is explicitly designed to absorb rainfall or snowmelt, typically to manage stormwater, mitigate the heat island effect, provide habitat for urban wildlife, or offer leisure and recreational space for building occupants.

GROUND FLOOR
That story that contains finished floor area closest to, but not below, grade level.

GROUND-MOUNTED
Directly installed in the ground and not attached or affixed to an existing structure.

GROUP LIVING, OTHER
A place of residence in which a group of persons who do not meet the definition of a family live together in rooms or areas that do not constitute individual dwelling units, and that does not meet the definition of a hotel, rooming house, dormitory, or community residential facility. This use includes but is not limited to fraternity and sorority houses, homeless shelters, domestic violence shelters, and halfway houses.

HAZARDOUS WASTE
Any substance so defined and in quantities so proscribed by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.) or Article 27 of the Environmental Conservation Law or any rule or regulation promulgated under any of those laws. This term also includes any nuclear or radioactive waste as defined by either federal or state law, rule or regulation.

HABITABLE SPACE
Building space whose use involves human presence. Habitable space excludes parking garages and display windows separated from retail activity.

HEADER
For purposes of form-based zoning controls, the horizontal member (or assembly of members) visibly spanning the top of an opening (often referred to as a lintel).

HEALTH CLUBS/ INDOOR RECREATION
For purposes of the Albany-Colonie Intermunicipal Overlay District, an establishment that offers facilities, equipment and programs for exercise, weight loss and/or body development provided that, in order to be within the scope of this definition, any such use that requires a license to operate must demonstrate that it has or is qualified to obtain such a license. Food items may be offered. Outdoor athletic courts and facilities are permitted and may be included with a health club and/or indoor recreation use.

HEAVY COMMERCIAL SERVICES

An establishment that provides semi-industrial, more intrusive types of commercial services, larger in scale or with more intensive impacts than common household commercial services, including but not limited to laundry services, lumberyards, sign painting shops, tree and landscaping services, and Contractor Shop and Yard.

HEAVY EQUIPMENT

Large vehicles used in construction, farming or for industrial purposes; e.g., tractors, bulldozers, cherry pickers, steamrollers, farm equipment, etc.

HEAVY MANUFACTURING

The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards. Examples include, but are not limited to: scrap metal processing facilities, battery, chemicals, machinery, plastics manufacture, and mining not otherwise prohibited in the City. Prohibited uses include but are not limited to, the reprocessing of used petroleum products for transshipment, natural gas exploration, and the storage, disposal, or treatment of natural gas exploration and production wastes. See also Section 375-3(A)(6) (Prohibited Uses).

HEAVY VEHICLE EQUIPMENT SALES, RENTAL, AND SERVICING

Sales of any motor vehicles with a Gross Vehicle Weight Rating exceeding 14,000 pounds, and sales of mechanical or electrical equipment stored or displayed outside, and/or the general repair, rebuilding, or reconditioning of engines, motor vehicles, power equipment, or trailers, such as collision services, body repair and frame straightening, painting and upholstering, vehicle steam cleaning and undercoating.

HEIGHT

1. For purposes of the Albany-Colonie Intermunicipal Overlay District, the vertical distance from the average ground level of the foundation of the building or structure to the highest point of the roof, unless otherwise specified herein, provided that chimneys, spires, towers, elevators, penthouses, tanks, HVAC, and similar projections shall be excluded from such calculation.
2. For all other purposes, the vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface if a flat roof, to the deck line for mansard roofs, and to the mean height level between eaves and ridge for gabled, hip, and gambrel roofs.

HIGHER EDUCATION INSTITUTION

An institution, other than a Trade School, that provides full-time or part-time education beyond high school, including but not limited to colleges and universities. Accessory or related facilities can include but are not limited to sports fields, dormitories, eating facilities, health facilities for students and staff, offices for administration and campus activities, record keeping facilities, and storage and maintenance facilities for equipment, furniture, supplies, vehicles or equipment owned, leased, or providing services to the institution.

HIGHEST ADJACENT GRADE

For purposes of the Floodplain Overlay (FP-O), the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC DISTRICT

An area with defined boundaries so designated by the Common Council that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically by past events or united aesthetically by plan or development. An historic district may also comprise individual elements, separated geographically, but linked by association or history.

HISTORIC RESOURCES COMMISSION

See Section 375-5(C)(3).

HISTORIC STRUCTURE

Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION

A business, profession, occupation or trade conducted by the occupant of a dwelling unit or accessory structure and that is incidental and secondary to the use of the dwelling unit.

HOSPITAL

An establishment that provides diagnosis and treatment, both surgical and nonsurgical, for patients who have any of a variety of medical conditions through an organized medical staff and permanent facilities that include inpatient beds, medical services, and continuous licensed professional nursing services. This definition includes any facility licensed by the state as a general, limited, or special hospital. Accessory uses can include helipads licensed by the State of New York.

HOSTEL

A place of transient lodging for recreational and educational travelers that provides dormitory-style sleeping accommodations and common communal areas, including a kitchen for use by guests.

HOTEL

1. For purposes of the Albany-Colonie Intermunicipal Overlay District, a building in which lodging is provided and offered to the public, which is customarily open to transient guests, and which may include ancillary facilities and services such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities. A hotel unit may contain a kitchen for extended stay lodgings. Outdoor athletic courts and other outdoor facilities are permitted and may be included with a hotel use.
2. For all other purposes, a building or adjacent buildings designed for occupancy as a temporary residence of individuals who are lodged with or without meals and in which no provision is made for cooking in any individual room or suite, including hostels. This use includes related services and ancillary facilities such as restaurants, conference rooms, and the sale of convenience goods.

IMPERVIOUS LOT COVERAGE

The total area of any lot or parcel occupied by all of the following:

1. The footprint of the principal building (but excluding the surface area of any Green Roof)
2. The footprints of all accessory buildings, parking garages, carports, utility and storage sheds (but excluding the surface area of any Green Roof);
3. All areas or areas otherwise covered with materials impervious to water including parking areas and driveways (but not including parking areas and driveways with pervious or semi-pervious paving materials); and
4. All areas occupied by above ground swimming pools (but not in-ground pools).

IMPERVIOUS SURFACE

Any constructed hard surface that either prevents or impedes the entry of water into the soil. Examples include but are not limited to building roofs, sidewalks, driveways, and other paved surfaces.

IMPROVEMENT

A building, structure, pavement, parking facility, fence, gate, wall, sign, awning, work of art or object constructed or erected by humans or equipment operated by humans.

INDOOR RECREATION OR ENTERTAINMENT

A facility for indoor participation or observation of sports, games, fitness, arts, or culture activities that do not meet the definition for another use in this Ordinance. This use includes but is not limited to billiard parlors, game rooms, skating rinks, bowling alleys, gymnasiums not accessory to an education institution, racket clubs, sports arenas, and similar uses. Indoor recreation or entertainment can also refer to a building, room or area designed or used primarily for the presentation to the general public of live theater, dance performance, music, or cinema. This use does not include an Indoor Stadium or Arena.

INFILL

New development or redevelopment of buildings and structures on vacant or underused lots within areas containing existing structures.

INFILTRATION
The process of percolating stormwater into the subsoil.

INTERIOR LANDMARK
For purposes of historic resource regulations, a landmark noted for the portions of its interior that are open to the public.

LAND
The earth, water, and air, above, below, or on the surface, and including any improvements or structures customarily regarded as land.

LANDFILL
Any site, location, tract of land, area, building or premises authorized by the City to be used for the disposal of refuse or demolition debris. Accessory uses include but are not limited to landfill gas recovery systems or facilities.

LANDMARK
All or any part of an object or structure or property designated as a landmark structure or site pursuant to this USDO.

LANDSCAPING
Any combination of vegetation, such as trees, shrubs, ground cover, thickets or grasses, that are planted, preserved, transplanted, maintained and groomed to develop, articulate and enhance the aesthetic quality of the area as well as provide erosion, drainage and wind control.

LEED, LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN
A green building certification program created by the U.S. Green Building Council that recognizes best-in-class building strategies and practices.

LIGHT MANUFACTURING
The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards discernible outside of the building or lot where such assembly, fabrication, or processing takes place, and that do not require frequent rail or truck traffic to deliver goods or remove materials or waste, and where such processes are housed entirely within a building.

LIGHT VEHICLE SALES, RENTAL, AND SERVICING
The sale, display, lease, rental, or storage of motor vehicles with a Gross Vehicle Weight Rating of less than 14,000 pounds, including automobiles, vans, light trucks, light trailers, boats, and recreational vehicles minor vehicle repair and maintenance activities such as engine tune-ups, oil change and lubrication, brake and muffler repair, tire rotation, glass replacement, and other limited repairs customarily done in service stations, but not including vehicle bodywork or painting, or major engine or transmission repairs. This use shall not include salvage operations, scrap operations, vehicle impound yards, or commercial parking lots available for short-term use.

LITTLE LIBRARY OR LITTLE PANTRY

An enclosed structure containing no more than six cubic feet of space and designed to contain books or food items, with an opening front surface to allow individuals to place books and food items into the structure or to remove them from the structure, located so that the bottom surface of the enclosed structure is between two and three feet above grade.

LOCAL ADMINISTRATOR

For purposes of the Floodplain Overlay (FP-O), the person appointed by the community to administer and implement Section 375-2(F)(3) by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

LODGE

A structure used for meetings and activities by social, service or community organization. Examples are Elks, VFW, Kiwanis, Junior League, Masonic Lodge, Rotary and University Club.

LOT AREA

The amount of horizontal land area contained inside the lot lines of a lot or site.

LOT CONSOLIDATION

See Section 375-5(E)(8).

LOT COVERAGE

The percentage of a lot area occupied by the ground area of principal and accessory buildings or structures on such a lot.

LOT DEPTH

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

LOT LINE

A line bounding a lot that divides one lot from another lot or from a street or any other public or private space.

LOT LINE, FRONT

That boundary of a lot measured along the edge of the right-of-way of a dedicated street, private street or road easement that abuts that line. In the case of a corner lot, all lines that meet this description are front lot lines.

LOT LINE, REAR

That boundary of a lot that is most parallel to the front lot line and does not intersect the front lot line. In the case of a triangular lot, the rear lot line is a line 20 feet in length within the lot parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE

That boundary of a lot that is neither a front or rear lot line.

LOT LINE ADJUSTMENT

See Section 375-5(E)(7).

LOT WIDTH

The average horizontal distance between side lot lines, or on a corner lot, the average horizontal distance between the secondary street facing frontage and the side lot line opposite that frontage.

LOWEST FLOOR

For purposes of the Floodplain Overlay (FP-O), the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of Section 375-2(F)(3).

MANUFACTURED HOME

1. For purposes of the Floodplain Overlay (FP-O), a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a Recreational vehicle.
2. For all other purposes, a transportable, factory-built structure that is designed to be used as a single dwelling unit, that was manufactured after 1976 or otherwise complies with the construction standards in the federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401).

MANUFACTURED HOME PARK OR SUBDIVISION

For purposes of the Floodplain Overlay (FP-O), a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARIJUANA DISPENSARY

A business that is registered to operate in the State of New York that sells or otherwise distributed marijuana to certified patients, designated caregivers or practitioners.

MARIJUANA MANUFACTURING FACILITY

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

MARINA

A small boat harbor or boat basin providing dockage, supplies and services for small pleasure craft.

MAXIMUM EXTENT PRACTICABLE

No feasible or practical alternative exists, as determined by the Chief Planning Official, and all possible efforts to comply with the standards or regulation or minimize potential harmful or adverse impacts have been undertaken by the applicant. Economic considerations may be taken into account but shall not be the overriding factor determining "maximum extent practicable."

MEAN SEA LEVEL

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

METHADONE DISPENSARY

A business that is registered to operate in the State of New York that sells or otherwise distributed methadone as part of a methadone maintenance treatment program to persons and under conditions that comply with state law.

MINING

Removal or extraction of mineral, sand, gravel, or aggregate resources from the ground for off-site use, including but not limited to those activities regulated by Section 211, Article III (Mining Operations) of the City Code. Examples include quarrying or dredging for sand, gravel or other aggregate materials; and mineral extraction.

MINOR RESIDENTIAL STRUCTURE

An accessory structure commonly associated with a residential use and not listed separately in Table 375-4-4 (Encroachments and Exceptions).

MOBILE VENDOR

A self-contained mobile unit, independent with respect to water, sewer, and power utilities, capable of moving or being moved, consisting of an enclosed truck, enclosed trailer or similar mounted unit that contains equipment used for the preparation and/or sale of food products or other products and is closed up when not in operation. This use applies to mobile units when located on private property, and does not apply to vendors parked on public streets, which are subject to police regulations.

MOBILE HOME

1. For purposes of the Floodplain Overlay (FP-O), a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a Recreational vehicle.
2. For all other purposes, a transportable, factory-built structure that is designed to be used as a single dwelling unit that was manufactured before 1976 or otherwise does not comply with the construction standards in the federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401). This definition does not include a recreational vehicle or travel trailer or other similar vehicles. Mobile homes are considered nonconforming and are therefore prohibited within the limits of the City of Albany.

MODULAR HOME

Multiple sectional housing manufactured after June 15, 1976, to standards established by the U.S. Department of Housing and Urban Development. A standardized factory-fabricated transportable building module not having a chassis or wheels of its own, designed and constructed in accordance with all applicable local building codes and intended to be placed on a permanent foundation, by itself or incorporated with similar units on the building site. The structure or building module is transportable in

one or more sections on a temporary chassis or other conveyance device, and is designed to be used as a permanent building (dwelling, office, etc.) when installed on its required permanent foundation system. Utilities are installed and connected as in conventional housing.

MULTI-LEVEL PARKING STRUCTURE

For purposes of the Albany-Colonie Intermunicipal Overlay District, a structure used for parking or temporary storage of motor vehicles on more than one floor.

MUSEUM

A facility open to the public, with or without charge, for the collection and display of paintings, sculpture, textiles, antiquities, other works of art, or similar items.

NATURAL AREA OR PRESERVE

An area of land and/or water that has a predominantly undeveloped character. Natural areas may be pristine, or may have been affected by human activity such as vegetation removal, agriculture, grading or drainage if such areas retain significant natural characteristics, or have recovered to the extent that they contribute to the City's natural systems including hydrology, vegetation, or wildlife habitat. The purpose of natural areas is to provide a scenic, aesthetic appearance and/or protecting natural processes, providing passive recreational uses, and/or maintaining natural vegetation.

NATURAL GAS

Any gaseous substance, either combustible or noncombustible, that is produced in a natural state from the earth and that maintains a gaseous or rarified state at standard temperature or pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

NATURAL GAS EXPLORATION AND PRODUCTION WASTES

Any garbage, refuse, sludge, or other discarded materials, including solid, liquid, semisolid, or contained gaseous material, that results from the exploration, drilling or extraction of natural gas.

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

NONCOMMERCIAL FLOOR

A horizontal internal surface of a building that is at least 50 percent as large as the footprint of the building on the lot at ground level, and that is only occupied by a Group Living use, a Household Living use, and Accessory Dwelling Unit, and/or permitted s or by a permitted Home Occupation.

NONCONFORMING LOT

A lot of record that was legally established prior to the effective date of this USDO, but that does not conform to the current minimum area and/or dimensions required in the zoning district in which it is located.

NONCONFORMING STRUCTURE

A structure that was legally established prior to the effective date of this USDO, but that does not conform to the current area regulations of the zoning district in which it is located.

NONCONFORMING USE

A use of a lot or a structure that was legally established prior to the effective date of this USDO, but that does not conform to the current zoning regulations of the district in which it is located.

OFFICE

1. For purposes of the Albany-Colonie Intermunicipal Overlay District, any building or part of a building where the principal use is the operation of a business, administrative, governmental, public utility, sales, professional, or other business or services.
2. For all other purposes, establishments providing executive, management, administrative, professional services, consulting, banking, laboratory, record keeping, music or sound recording, or a headquarters of an enterprise or organization, but not including the on-premises sale of retail goods. This use does not include a Marijuana Dispensary or Methadone Dispensary.

OPEN SPACE

An area on a zoning lot not covered by a principal or accessory building, parking or impervious surface.

OPERATING HOURS

The hours within which a product may be sold, offered for sale, or given away for on-premises consumption. No person shall be permitted to consume any product upon such premises later than 30 minutes after the end of operating hours.

ORNAMENTAL TREE

Any tree, shrub, or other plant grown primarily for decorative purposes and whose mature height can be expected to be between four feet and 12 feet, as specified by the American Standard of Nursery Stock. See Table 375-4-12.

OUTDOOR RECREATION OR ENTERTAINMENT

Facilities for outdoor sporting or recreational activities. This use includes but is not limited to amusement parks, commercial baseball or other athletic fields, race tracks, fairgrounds, commercial picnic grounds, commercial fishing lakes, marinas, boat launches, commercial stables, outdoor stage and concert facilities, gun clubs, skeet, trap, or target ranges, commercial golf courses, miniature golf courses, and commercial swimming pools. This does not include an outdoor Stadium or Arena.

OVERLAY DISTRICT

A unique set of zoning regulations that are superimposed on one or more established zoning districts and shown on the zoning map, and subsequently impose in addition to or in place of the regulations of the underlying district. The overlay district may be used to impose supplemental restrictions on uses in these districts, permit uses otherwise disallowed, or implement some form of site or architectural design program. Developments within an overlay district must conform to the requirements of the underlying district as modified by the overlay district and as set forth in the enacting ordinance.

PARAPET
That portion of a wall that extends above the roof line.

PARK OR PLAYGROUND
A private or public open area for recreation, which may include accessory parking areas, shelters, picnic tables, restrooms, and other facilities for the use of park patrons. May also be a defined open space, typically interspersed within residential areas, that is designed and equipped for the recreation of children. Playgrounds may be freestanding or located within parks, greens, or school sites.

PARKING LOT, SURFACE
An area on the surface of the land for parking automobiles and light vehicles.

PARKING STRUCTURE
An area in an underground or above-ground structure, or an area incorporated into the structural design of a building, for parking automobiles and light trucks in return for direct or indirect compensation.

PARTY
For purposes of administration of this USDO, the applicant, City, and any affected person who has requested to be heard at a hearing on an application.

PASSIVE SOLAR SYSTEM
A solar energy system that relies upon original or retrofitted design features and building materials of a structure to enhance the use of natural forces to provide heating and cooling within a building.

PAWN SHOP
The premises at which personal property or other valuables are purchased on condition of selling the same back again at a stipulated price, and/or the premises at which a pawnbroker loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness.

PEAK DISCHARGE RATE
The maximum instantaneous rate of flow during a storm, usually in reference to a specific design storm event.

PERSON
Any individual, corporation, government agency, business trust, partnership, two or more persons having a joint interest, or any other legal entity.

PERSONAL OR BUSINESS SERVICE
Any business that primarily performs a support service for an individual or business, including but not limited to a shoe repair shop, dry-cleaning establishment, laundromat, barber shop, beauty parlor, photocopying (either self-service or full-service), design, printing and binding of documents, presentations, desktop publishing, packaging, and/or mailing, makerspace, collaborative work space, and sign shop. This use does not include a Marijuana Dispensary or Methadone Dispensary. Accessory sales of goods may occupy no more than 25 percent of the gross floor area of the establishment.

PHASE IA CULTURAL RESOURCES INVESTIGATION

That study defined by the Standards for Cultural Resource Investigations and Curation of Archaeological Collections in New York State promulgated by the New York State Archaeological Council.

PHOTOVOLTAIC (PV) SYSTEM

A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, that generate electricity whenever light strikes them.

PLANT NURSERY

An establishment, including a building, part of a building, or open space, for the growth, display and/or sale of plants, trees, and other materials used in indoor or outdoor planting for retail sales and incidental wholesale trade.

PLANNING BOARD

See Section 375-5(C)(2).

PLAT

A map or delineated representation of a subdivision of land, including other information required by this USDO; also, a map or delineated representation of existing and proposed development on a lot that is used to determine its overall impact on urban service delivery facilities and programs.

PLAY EQUIPMENT

Accessory structures and uses, used for recreation and play, including jungle gyms, play houses, play sets/structures/equipment, skateboard halfpipes, swing sets, trampolines, tree houses, sandboxes, and other similar uses.

PLAZA

A plaza is a formal open space available for civic and commercial uses and spatially defined by building frontages. Landscaping in a plaza consists primarily of pavement; trees and shrubs are optional.

POLICE OR FIRE STATION

Facilities for the provision of municipal rapid response emergency services such as firefighting and policing, including areas for the storage and maintenance of emergency vehicles and equipment and housing and feeding of emergency personnel.

PORCH

See Section 375-4(B)(1)(c)(vii)G.

PORTABLE STORAGE CONTAINER

A semi-trailer, truck box, or other similar container placed on a property for use as accessory storage. Dumpsters or roll-off containers used for the temporary storage of solid waste shall not be included under this definition.

PREMISES

A lot, plot or parcel of land, including any structure on the lot, plot, or parcel of land.

PRIMARY FAÇADE
For purposes of form-based zoning controls, the front plane of a building not including stoops, porches, or other attached architectural features.

PRIMARY PEDESTRIAN ENTRANCE
The entrance to a structure that is located along the primary street.

PRIMARY STREET
The public right-of-way that serves as primary pedestrian access to a property.

PRINCIPAL BUILDING
A building in which the principal use of the lot is conducted, or if there are multiple buildings in which such use is conducted, then as determined by the Chief Planning Official. In zone districts where more than one principal use is permitted on a lot, there may be more than one Principal Building on the lot.

PRINCIPAL BUILDING FAÇADE
For purposes of form-based zoning controls, the front plane of a building not including Stoops, Porches, or other attached architectural features.

PRINCIPAL USE
The primary or predominant use to which the lot or building is or may be devoted and to which all other uses are accessory. A lot or building may have only one principal use.

PRINCIPALLY ABOVE GROUND
For purposes of the Floodplain Overlay (FP-O), at least 51% of the actual cash value of the structure, excluding land value, is above ground.

PROFESSIONAL ARCHAEOLOGIST
An individual possessing an appropriate level of educational achievement, expertise, and experience so as to be knowledgeable concerning relevant aspects of the archaeology, history, and culture of this City and who meets the professional qualifications standards set forth in the Secretary of the Interiors Standards and Guidelines for Archaeology and Historic Preservation.

PROJECT
Any construction or development activity upon real property.

PROPERTY OWNER
Any person having a legal or equitable interest in real property.

PUBLIC ENTITY
The United States government, including any department, agency, or bureau thereof; the State of New York and any political subdivision thereof; or any county, school district, special district, or quasi-municipal corporation, including the City of Albany.

PUBLIC RIGHT-OF-WAY
Any parcel of land appropriated for the free passage of the general public.

PUBLIC UTILITY

Any person, firm, or corporation, municipal department, board or commission duly authorized to provide public utilities under federal, state, or municipal regulations, including but not limited to gas, steam, electricity, sewage disposal, communication, telegraph, and water.

PUBLIC UTILITY OR SERVICES, MAJOR

Buildings and facilities for the provision and distribution of public utilities, including without limitation water, sewer, storm drainage, electric, and gas services, by a regulated utility or a public or quasi-public entity, of a size and scale found only in scattered sites throughout the city. This use includes but is not limited to electric transmission lines over 100 kilovolts, electric power substations, gas substations, regional stormwater drainage facilities, water treatment plants, sewer treatment plants, and public utility service centers.

PUBLIC UTILITY OR SERVICES, MINOR

The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such entities or for the public health or safety or general welfare, but not including buildings.

QUALIFIED CONSULTANT

A professional who is accredited by or registered with a professional group operating within the scope of his/her license that is acceptable to the City.

QUORUM

The minimum number of board members that must be present at a meeting for the board to conduct official business or take official actions.

RAINWATER HARVESTING BARREL

A barrel designed for the onsite harvest and storage of rainwater used to offset the potable water needs for a building and/or landscape.

RECHARGE

The replenishment of underground water reserves.

RECREATION, COMMERCIAL

Recreation facilities operated as a business and open to the general public for a fee.

RECREATION, PRIVATE

Clubs or recreation facilities operated by a nonprofit or private organization and open only to members and their guests.

RECREATION, PUBLIC

Recreation facilities operated by a governmental entity or any nonprofit organization and open to the general public.

RECREATIONAL VEHICLE

1. For purposes of the Floodplain Overlay (FP-O), a vehicle that is:
   a. Built on a single chassis;
   b. Four hundred square feet or less when measured at the largest horizontal projections;
   c. Designed to be self-propelled or permanently towable by a light-duty truck; and
   d. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
2. For all other purposes, a transportable structure or self-propelled vehicle with or without flexible removable or collapsible walls and partitions, designed to be used as a temporary dwelling for travel, recreation or vacation uses. The term "recreational vehicle" shall include motor home, camper bus and travel trailer, but shall not include pickup trucks with camper shells that extend one foot or less above the cab of the truck.

RECYCLING DROP-OFF CENTER

An building or area of land that serves as a drop-off point for temporary storage for recoverable resources, such as newspapers, glassware, plastics, and metal cans, for onward shipment to a recycling processor or distributor, but at which no processing of such items occurs.

REDEVELOPMENT

A change to previously existing, improved property, including but not limited to the demolition or building of structures, filling, grading, paving or excavating, but excluding ordinary maintenance activities.

REGULATING PLAN

A plan for Form-Based zoning districts that illustrates the overall vision for the district and describes the required form developments must follow in these areas. Each Regulating Plan is a part of the Zoning Ordinance.

RELIGIOUS INSTITUTION

A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained, and controlled under the direction of a religious group. Examples include churches, mosques, synagogues, temples, or other places of worship. Accessory uses may include but are not limited to school facilities, parking, caretaker's housing, pastor's housing, group living facilities such as convents, or a columbarium.

RESIDENTIAL USE

As used in the Albany-Colonie Intermunicipal Overlay District, the use of all or a portion of a building or structure arranged, intended or designed to be occupied by three or more resident households living independently of each other. An apartment building and multiple or multifamily dwellings are the same type of structure. Residential use shall include owner-occupancy or for rent.

RESTAURANT

1. For purposes of the Albany-Colonie Intermunicipal Overlay District, a building or structure or portion thereof, arranged, intended or designed for the preparation and service of meals at tables or counters. A restaurant shall include banquet halls.
2. For all other purposes, any establishment that prepares and serves meals for consumption on premises or to take away, and where any sale of alcohol permitted by the State of New York is secondary to the sale of food. This use includes a Banquet Facility.

RETAIL

1. For purposes of the Albany-Colonie Intermunicipal Overlay District, establishments engaged in the sale of goods, merchandise and services to the public and rendering services incidental to the sale of such goods.
2. For all other purposes, a use that meets the definition of Convenience Retail, General Retail, Specialty Retail, Supermarket, but not including a Marijuana Dispensary or Methadone Dispensary.

RETAIL, CONVENIENCE

A retail store selling a limited selection of groceries, beverages, snacks, lottery tickets, newspapers, magazines, tobacco products, household products and personal items to be consumed primarily off the premises. This use designed to attract customers who purchase a relatively few items and depends upon a large volume of stop-and-go traffic.

RETAIL, GENERAL

Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, including auction houses, that do not meet the definition of any other retail use, a restaurant use, or any other use listed in Table 375-3-1 (Permitted Use Table).

RETAIL, SPECIALTY

A retailer concentrating on selling a limited or select merchandise line of goods and having a narrow but extensive selection in their specialty. Examples are bicycle shops, music stores, florists, bagel shops, photo supply stores and antique shops.

REZONING

See Amendment to Zoning Map.

ROOMING HOUSE

A building containing a single dwelling unit and rooms for the rooming and/or boarding of at least three persons by prearrangement for definite periods of not less than one week. This use also includes a building containing multiple single room dwelling units, with each unit for occupancy by no more than two individuals and with a maximum square footage of 450 square feet.

SANITARY SEWER

A sewer which carries sanitary sewage and to which storm, surface and ground waters are not intentionally admitted.

SATELLITE DISH ANTENNA
A dish antenna designed for transmitting signals to a receiver or receiving station or for receiving television, radio, data, communication or other signals from other antennas, satellites or other services.

SCHOOL
An accredited public or private institution offering a course of education recognized by the State of New York as leading to a high school diploma or equivalent. Accessory uses may include student sports fields or facilities, playgrounds, gardens, and an accessory dwelling unit for a caretaker.

SCRAP METAL PROCESSING FACILITY
An establishment engaged primarily in the purchase, processing and shipment of ferrous and/or nonferrous scrap, the end product of which is the production of raw material for remelting purposes for steel mills, foundries, smelters, refiners, and similar users.

SCREENING
Whenever this term is used, it shall refer to any landscaping, screening, buffering, fencing or other barrier as required by this USDO.

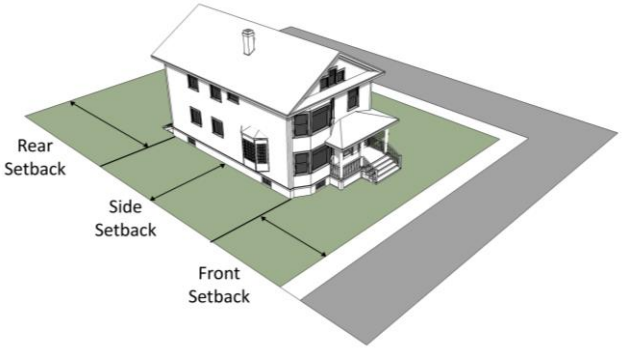
SECONDARY STREET
For purposes of form-based zoning controls, the public right-of-way that serves as the secondary pedestrian access to a property when coupled with a primary street or the primary access when coupled with a tertiary street.

SELF-STORAGE FACILITY
An establishment that permits customers to store their own materials in private, commercially available warehousing space in individual lockable units accessible from outside driveways or from indoor hallways.

SERVICE AREA
Any building, land area, or other premises used for the retail dispensing or sales of vehicular fuels; minor towing, servicing, and repair of automobiles and light trucks; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories. Body and fender work, transmission work, engine overhaul work, or repair of heavy trucks or vehicles are excluded from this use.

SETBACK
The required minimum distance between the lot line and the closest projection of a building or structure along a line at right angles to the lot line. Setbacks shall be unobstructed from the ground to the sky except as otherwise specifically allowed in this USDO.

FRONT SETBACK
A setback that extends across the full width of a lot or site, the depth of which is the distance between the front lot line and the closest projection of a building or structure line at right angles to the front



lot line, excluding allowable encroachments and projections set forth in this USDO.

REAR SETBACK

A setback that extends across the full width of a lot or site, the depth of which is the distance between the rear lot line and the closest projection of a building or structure along a line at right angles to the rear lot line, excluding allowable encroachments and projections set forth in this USDO.

SIDE SETBACK

A setback that extends from the rear line of the required front setback, or the front lot line of the site where no front setback is required, to the front line of the required rear setback, or the rear lot line of the site where no rear setback is required, the width of which is the distance between the side lot line and a line parallel thereto on the site.

SHADE TREE

Any tree, evergreen or deciduous, planted primarily for its high crown of foliage and whose mature height can be expected to exceed 20 feet, as specified by the American Standard of Nursery Stock. See Table 375-4-12.

SIDEWALK OR OUTDOOR CAFE

An outside area adjacent to an establishment selling food and/or drink on which food and drinks are served to patrons of the establishment.

SIGN

Any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any business or persons when the same is placed in view of the general public.

SIGN PERMIT

See Section 375-5(E)(5).

AWNING SIGN

Any sign or graphic attached to, painted on or applied to an awning or awning canopy.

FREESTANDING SIGN

Any sign supported by structures or supports that are placed on, or anchored in, the ground, and that are independent from any building or any other structure.

MONUMENT SIGN

Signage constructed on a monument base identifying the name of the business or retail center on the premises upon which the sign is placed. A sign face manufactured and constructed clearly to be a portable sign shall not be used in any form to be made into a permanent sign.

POLE SIGN
Any freestanding sign in which the sign face is supported by a single post, pole or support, and the area between the sign face and the ground is not opaque or enclosed, so that the sign face support structure is visible.

POST-AND-PANEL SIGN
Any freestanding sign in which the sign face is supported by two poles, posts, or supports, generally located at or near either end of the sign face, and between which poles, posts, or supports the sign face is visible.

PROJECTING SIGN
Any sign which projects from and is supported by a wall of a building with the display surface of the sign perpendicular to the building wall.

WALL SIGN
A sign attached to the wall of a building with the exposed face of the sign in a plane parallel to the face of said wall, not extending more than 25 percent above the roof line or parapet of the building, nor more than 24 inches from the wall surface.

SILL
A sill is the horizontal member (or assembly of members) at the base of a window or door opening.

SITE
Any lot or lots of record, or contiguous combination thereof, under the same ownership.

SITE PLAN
See "Development Plan."

SOLAR COLLECTOR
A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, that relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY EQUIPMENT
Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic, and passive solar.

SOLAR THERMAL SYSTEMS
A solar energy system that generates energy by collecting and focusing solar energy onto a small area to heat a fluid to a high temperature, which in turn drives an electric generator.

SPIRE
A tall, pyramidal, polygonal, or conical structure rising from a tower, turret, or roof (usually of an institutional use) and terminating in a point.

SQUARE
A formal open space available for recreational and civic uses and spatially defined by abutting streets and building frontages. Landscaping in a square consists of lawn, trees, and shrubs planted in formal patterns and it is typically furnished with paths, benches, and open shelters.

STADIUM OR ARENA
An open or enclosed area where sporting events or contests are held and provides seating for more than 300 spectators. Stadium uses also include auditoriums and band shells.

STAFF
Employees of the City of Albany.

START OF CONSTRUCTION
For purposes of the Floodplain Overlay (FP-O), the date of permit issuance for new construction and substantial improvements to existing structures, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STATE
The State of New York.

STOOP
See Section 375-4(B)(1)(c)(vii)D.

STOP WORK ORDER
An order issued by a Building Inspector or other authorized City staff that directs the person responsible for an activity in violation of this USDO or the adopted Building Code to cease and desist such activity.

STORAGE AND WHOLESALE DISTRIBUTION
An establishment engaged in the sale of commodities in quantity to retailers, other businesses, industries or institutions, and/or an establishment for the storage of products, supplies, and equipment offered for wholesale distribution (not for direct sale to the general public). This use does not include a Self-Storage facility.

STORAGE SHED
An accessory structure used for storage of personal items.

STORM SEWER
A sewer which carries storm- and surface waters and drainage, but excludes sewage and industrial wastes other than cooling waters and other unpolluted waters.

STORMWATER
Rainwater, surface runoff, snowmelt and drainage.

STORMWATER, GRADING, AND EROSION PERMIT
See Section 375-5(E)(12).

STORMWATER MANAGEMENT
The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY
One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER RUNOFF
Flow on the surface of the ground resulting from precipitation.

STORY
That portion of a building included between the surface of any floor and the surface of the floor next above it; if there is no floor above it, then the space between the floor and the ceiling or roof structure next above it.

STORY, HALF
That floor area under a sloped roof where no more than 70 percent of the floor area meets the minimum ceiling height requirements under the applicable building code.

STORY, FIRST
The lowest story or the ground story of any building, the floor of which is not more than 12 inches below the average grade at the exterior front walls of the building.

STREETS

ARTERIAL STREET
A street designed and intended to serve major centers of metropolitan areas, provide a high degree of mobility, and provide mobility through rural areas. These streets are typically used by large volumes of through traffic, receive traffic flow from collector and local streets, allow for major movement between areas of the City, and usually have heavy traffic moving at relatively high speeds. These streets can directly serve abutting land uses.

COLLECTOR STREET
A street that carries traffic from local streets to the arterial network, consists of principal entrance streets for residential, nonresidential and mixed-use developments, and provides for major circulation within the developments. These streets can be broken down into Major and Minor with

Major Collectors typically being longer in length, having lower connecting driveway densities, having higher speed limits, spaced at greater intervals, having higher annual average traffic volumes, and may have more travel lanes than Minor Collectors.

LOCAL STREET

A street designed primarily for access directly to individual lots or developments. These streets are not intended for use in long distance travel as they are often designed to discourage through traffic.

STREETSCAPE ZONES

FRONTAGE ZONE

The area between the building front or private lot line and the Pedestrian Zone, intended to buffer pedestrians from doorways and appurtenances.

PEDESTRIAN ZONE

The area primarily used for pedestrian travel along a sidewalk.

BUFFER ZONE

The area between the Pedestrian Zone and the Curb Zone, typically used for utilities, landscaping, public signage, transit stops, public street furniture, and other public streetscape amenities.

CURB ZONE

The area located immediately adjacent to the roadway, which serves as a safety feature to prevent vehicles from driving onto the sidewalk and sometimes as a part of the storm drainage system.

STRUCTURE

1. For purposes of the Floodplain Overlay (FP-O), a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
2. For all other purposes, anything constructed or erected which requires permanent or temporary location on the ground or attachment to something permanently attached to the ground. This term shall include, but not be limited to, buildings, walls, fences, awnings, signs, billboards, lighting fixtures, screen enclosures, works of art, electronic transmission or reception devices or other electronic devices and mechanical devices related to a building function.

STYLE

For purposes of historic resource regulations, a type of architecture distinguished by special characteristics of structure or ornament and often related in time; also, a general quality of distinctive character.

SUBDIVISION

The division of any parcel of land into two or more lots, blocks or sites, with or without streets or highways, and includes re-subdivision and the combination of existing parcels. See Section 375-5(E)(18).

SUBSTANTIAL DAMAGE

For purposes of the Floodplain Overlay (FP-O), damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the

market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure in two separate occasions during a ten-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

For purposes of the Floodplain Overlay (FP-O), any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or
2. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

SUBSURFACE EXCAVATION

The mechanical or manual breaking of ground, digging, mining, blasting, or other such means for removal or displacement of the natural surface of the earth, whether sod, dirt, soil, sand, gravel, stone, silt, or other naturally-deposited material, whether alone or in combination.

SUPERMARKET

A retail or wholesale store selling foodstuffs and daily essential items, which may include but not be limited to canned goods, meats, dairy products, vegetables, condiments and paper goods, and in which at least five percent of the gross revenues of the establishment come from sales of fresh vegetables, fruit, and produce.

SWIMMING POOL

Any confined body of water designed, used, or intended to be used for swimming or bathing purposes, the bottom and sides of which are constructed using man-made materials.

TELECOMMUNICATION ANTENNA OR SATELLITE DISH AS ACCESSORY USE

A piece of equipment or a dish antenna used for receiving and/or transmitting telecommunications signals that is attached to or located inside a building as an accessory structure, as opposed to a freestanding antenna or tower structure mounted on the ground.

TELECOMMUNICATIONS TOWER

A freestanding structure erected on the ground to support wireless communication antennas and connecting appurtenances. Support structure types include, but are not limited to, stanchions, monopoles, lattice towers, wood poles or guyed towers.

TEMPORARY CONSTRUCTION OFFICE OR YARD

A facility or area used as a temporary field construction office, temporary outdoor storage of construction equipment and materials associated with an active permit to demolish or construct buildings, structures or infrastructure.

TEMPORARY REAL ESTATE SALES/LEASINGOFFICE

A facility or area used as a temporary office to sell or lease land or buildings or interests in land or buildings within a specified area.

TEMPORARY SEASONAL SALES

The temporary sale of goods or products associated with the season or a cultural event, such as the sale of Christmas trees, pumpkins, or seasonal produce. Such sales typically take place in locations not devoted to such sales for the remainder of the year.

TEMPORARY SIGN

A sign that is designed to be used only temporarily and is not intended to be permanently attached to a building, structure or permanently installed in the ground.

TEN-YEAR STORM

The peak discharge rate associated with a 24-hour storm event that has a 100% chance of being equaled or exceeded in a given ten year.

TERTIARY STREET

The public right-of-way that serves as the lower priority access to a property when coupled with a secondary or primary street or the primary access when coupled with a street of lower value in the street hierarchy. The third in line of street hierarchy.

THEATER

For purposes of the Albany-Colonie Intermunicipal Overlay District, a building or space, or portion thereof, used for cultural education and experiences, motion pictures, live productions, or other entertainment, including, but not limited to, museums, art galleries, aquariums, amphitheaters, theaters, cultural entertainment facilities and performance halls.

TOWER

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for commercial, amateur, or ham radio, telephone, television, and similar communications purposes, including self-supporting guyed towers, lattice towers, or monopole towers. The term includes alternative tower structures, cellular telephone towers, common-carrier towers, microwave towers, radio and television transmission towers, and ham radio towers, as well as any supports for them, and specifically includes "Telecommunications Tower" and "Tower Structure, Other" as defined in this Section 376-6.

TOWER STRUCTURE, OTHER

All towers erected on the ground that do not meet the definition of "Telecommunication Towers," including but not limited to amateur/ham radio, broadcasting towers, radio towers, and television towers.

TRADE SCHOOL

A private or public institution that teaches students a trade or job skill rather than the broad curriculum offered by a college or university. Examples are welding, auto repair, barber/beauty, secretarial/office skills, construction, accounting, bookkeeping, web design, computer programming, and similar skills.

TRANSIT FACILITY

A Building, facility, or area located outside of the public right-of-way and designed and used for persons using or changing transportation modes or transit routes, or for the storage or parking of transit vehicles, generally for periods of no more than 24 hours. This definition includes but is not limited to bike share facilities located within or outside of the public right-of-way.

TREE AND VEGETATION PERMIT

See Section 375-5(E)(9).

UNDEVELOPED SITE CONDITION

Where any site was previously altered from its undeveloped state shall be determined from available topographic or historical maps. Where no information is available concerning the site in its undeveloped state, all calculations will be based the assumption of uniform gently sloping grades (5%), moderately impervious soils and light forestation.

USE

The purpose for which a structure or premises, or part thereof, is occupied, designed or arranged.

VACANT

A building, building portion, or property that is unoccupied and left unsecure, not in use, is in temporary use, or lacks permanent improvement. See Vacant Building Registry requirements in Section 133.78.3 of the City Code.

VARIANCE

The Board of Zoning Appeals' (BZA) authorized departure from the terms of this USDO in direct regard to conditions peculiar to an individual lot in accordance with the procedures set forth thereto in this USDO.

AREA VARIANCE

The authorization by the BZA for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable regulations of this USDO.

USE VARIANCE

The authorization by the BZA for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable regulations of this USDO.

FLOODPLAIN VARIANCE

For purposes of the Floodplain Overlay (FP-O), a grant of relief from the requirements of Section 375-2(F)(3) (FP-O Floodplain Overlay) that permits construction or use in a manner that would otherwise be prohibited by Section 375-2(F)(3).

VEHICLE FUELING STATION

A building or place of business where gasoline, electric vehicle charging stations, and alternative fuels such as compressed natural gas are supplied and dispensed directly to customers at retail. This use may include the sale of food and convenience items, and automotive accessories to customers, but shall not include any vehicle repairs listed under Light Vehicle Sales, Rental, and Servicing.

VEHICLE SALE

Sale or rental of automobiles, motorcycles, trucks, tractors, recreational vehicles, construction or agricultural equipment, boats, and similar equipment, including incidental storage and incidental maintenance.

VEHICLE TOWING, WRECKING, OR JUNKYARD

The dismantling or disassembly of used motor vehicles or trailers, or the storage, sales, or dumping of dismantled, partially dismantled, obsolete, or wrecked vehicles or their parts. This use includes premise or lot used for the storage or handling of scrap or recyclable materials, as well as vehicle towing operations.

VETERINARIAN OR KENNEL

An establishment that provides medical treatment and care to animals, and that may include temporary or overnight boarding of animals that are recuperating from treatment, or an establishment in which five or more domesticated animals (dogs and cats), more than six months of age, are housed, groomed, bred, boarded, trained or sold. This use includes but is not limited to, animal hospitals, kennels, veterinary clinics, and animal shelters.

VIOLATION

1. For purposes of the Floodplain Overlay (FP-O), the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.
2. For all other purposes, an action that results in a property or use not being fully compliant with the provisions of this USDO, as described in Section 375-5(G)(4) (Violations and Responsible Parties).

WALL PLANE, FRONT

The predominant vertical or near vertical wall surface located on the façade of the primary building located closest to the front lot line.

WALL PLANE, SIDE

The predominant vertical or near vertical wall surface located on a façade of the primary building located closest to a side lot line.

WASTE / RECYCLING PROCESSING FACILITY

A site or facility where solid waste, recycled materials and compostable materials are collected and/or processed. Processing shall mean the preparation of materials for the efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting, and cleaning.

WETLAND

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

YARD

An unoccupied area, open and unobstructed from the ground or any floor level to the sky, on the same lot as a building.

YARD, FRONT

A yard located between the front lot line and the front of any structure (not including fences).

YARD, REAR

A yard located between the rear line of any building or structure (not including fences) and the rear lot line.

YARD, SIDE

A yard between any structure (not including fences) and the side lot line.

ZONING CLEARANCE

See Section 375-5(E)(2).

ZONING DISTRICT

Parts of the City for which the regulations governing the use of and occupation of property are the same.

ZONING MAP

The Zoning Map or Maps of the City of Albany, New York, together with all amendments thereto subsequently adopted.

Section 375-7 APPLICATION FEES

(1) The following fees for reviewing applications under this USDO shall apply from June 1, 2017, until a schedule of application fees appears in an Administrative Manual approved by the Chief Planning Official.

(a) GRADING AND MINING

(i) Grading Permit Fees

Before issuing any grading permit, the City Engineer shall collect a fee, the amount of which is based on the total amount of cut or fills, whichever is larger, as shown in the following table:

Cubic Yards	Fee
50 to 100	$35
101 to 1,000	$50
1,001 to 10,000	$50 plus $15 for each additional 1,000 cubic yards or fraction thereof
Over 10,000	$200 plus $35 for each additional 10,000 cubic yards or fraction thereof

(ii) The City Engineer may, at his discretion, refer the applicant to an authorized representative of the City Engineer for plan checking and inspection. All fees for these services shall be borne by the applicant and will be substituted for the grading permit fees listed above.

(b) BOARD OF ZONING APPEALS

(i) No application for a permit, certificate, appeal, amendment or other zoning purpose will be processed nor shall any action be taken unless the various charges for expenses or fees are paid in accordance with the schedule shown in the following table:

Type of Application	Fee
Use Variance	$400; Per additional variance: $100
Area Variance	One- to two-family residence: $50 All others: $150 Per additional variance: $25
Conditional Use Permit	$250 Per additional permit $100
Interpretation	$100
Administrative Appeal	$250
Amendment	$200
Extension	$100
Rescheduling	$100
Zoning Compliance Letter	$50

(c) ADDITIONAL ZONING RELATED FEES

Type of Application	Fee
Development Plan Review – Residential	Base Fee: $300 Per additional 1,000 square feet of new construction (parking structures excluded): $50 Per 1,000 square feet of renovated space: $20 Per new parking space: 1-10 spaces: $75 11-50 spaces: $150 51-100 spaces: $300 101-500 spaces: $600 501-1,000 spaces: $1,200 1,000+ spaces $2,400
Development Plan Review – Non-Residential	Base Fee: $200 Per residential unit or lot: $50 Per new parking space: $20
Development Plan Review Amendment	$200
Development Plan Extension	$100
Rescheduling	$100
Zoning Change/Amendment	Base Fee: $500 Per acre of lot size : $50
State Environmental Quality Review (SEQR)	Draft Environmental Impact Review and Notice: $350 Final Environmental Impact Review and Notice: $350

(2) For those new types of applications created by this USDO for which an application fee has not been established before June 1, 2017, the Chief Planning Official is authorized to charge a fee consistent with Section 375-5(D)(4)(c) (Application Fees) and New York State law.

(3) Applications generated by the City of Albany and in connection with and furtherance of the governmental purpose and objective shall be exempt from such fees.