

APPENDIX B

WATERFRONT ZONING DISTRICT

## SECTION 103-13.1 WD WATERFRONT DISTRICT

### A. Purpose

The Niagara River shoreline has always played an important role in shaping the image of the City and its economic base. This goes back to the late nineteenth century when lumber milling was a dominant activity along the waterfront, establishing the City as the Lumber Capital of the World at the turn of the Century. More recently, recreational pursuits such as boating and fishing have become increasingly important elements in the City's initiatives to stimulate economic growth.

The combination of older and often underutilized, industrial sites intermixed with newer uses catering largely to water based recreation has created the need to guide future developments along the riverfront. In order to balance the demands placed on the waterfront by competing uses and to improve both the physical and visual environment along the Niagara River, a Waterfront District governed by special controls and development regulations has been established.

The Waterfront District permits a variety of uses which are either enhanced by or dependent upon a shoreline location. In addition, site plan review procedures have been designed to ensure that the specific details of waterfront development are thoroughly considered; that the environmental quality of the area is preserved; and, that development is consistent with the City's Local Waterfront Revitalization Program (LWRP).

### B. Permitted uses for properties that have frontage on a waterbody:

1. Marina, yacht club, boat launch facilities, and boat docking facilities.
2. Parkland, trail facilities, fishing docks, and piers.
3. Boat yards, including boat sales, rentals and storage, marine supplies and equipment; boat service and repair facilities.
4. Commercial excursion and fishing charter facilities.
5. Commercial docks and pipelines for the transfer of goods from the Niagara River to land and/or from land to the Niagara River.
6. Water dependent industry.

C. Permitted uses for properties that do not have frontage on a waterbody:

1. The uses listed in Section 103-13.1(B).
2. Restaurant.
3. Business and professional offices.
4. Hotels and motels, including conference and resort facilities.
5. Light industry.
6. Retail and personal service commercial uses as specified in Section 103-10.C-1, Neighborhood Business District, Paragraph A2.
7. Dwelling groups consisting of four or more dwellings on the same lot and having a minimum lot size per group of 1.5 acres.
8. Townhouse developments.

D. Special permitted uses for properties that have frontage on a waterbody:

1. Those uses listed in Section 103-13.1(C) provided that the general criteria for a special use permit (Section 103-18B.3) are met and further, that compliance with the requirements specified below in either paragraph 2 or 3 is provided.
2. Uses listed in Section 103-13.1(C) shall be established in conjunction with one or more of the permitted uses listed in Section 103-13.1(B). When the use listed in Section 103-13.1(B) does not occupy the entire shoreline, the site plan review and approval provisions set forth in Paragraph H below shall be used to ensure that buildings and structures are placed on the site in a manner that would maximize the amount of open space along the shoreline.
3. Uses listed in Section 103-13.1(C) shall include a public pedestrian walkway with public access along the entire frontage on the Niagara River. Plans for the walkway shall be approved by the Planning Commission as part of the site plan review and approval provisions (Paragraph H below) and shall be available for public use under a mutually acceptable arrangement between the City and the property owner.

E. Special permitted uses for properties that do not have frontage a waterbody:

1. Refreshment stands not included as an accessory use (refer to Section 103-13.1F).
2. Adult uses, as specified and defined in the Adult Use Ordinance, as indicated in Chapter 9A of the City Code of the City of North Tonawanda, New York.

The general criteria for special permits (§18B.3) shall also be applicable.

F. Accessory uses:

Within the Waterfront District the following uses, buildings and structures shall be allowed as accessories to permitted uses when located on the same lot or land with such use:

1. Private garage or parking space.
2. Private boat houses, docks and related uses and structures.
3. Other support facilities necessary for the successful operation of permitted uses including, but not limited to, storage facilities for equipment or supplies, bait and tackle shops, and snack bars.
4. Exterior signs, subject to the following standards:
  - a. Sign information shall pertain only to the existing permitted use on the premises.
  - b. One sign advertising the sale or rental of property not to exceed twenty four (24) square feet in face area. Said advertising sign shall be located on the property advertised for sale or rent and shall be removed within ten (10) days following the sale or occupancy of the rental property. The advertising sign may be affixed to a building or free standing.
  - c. No sign shall be equipped or displayed with any moving parts nor shall any sign contain any moving, flashing, or intermittent illumination.
  - d. No sign shall project above the roof line.
  - e. The total square footage of all signs on any premises shall not exceed 1.5 square feet per linear foot of building facade on the street which provides the principal access for the use.
  - f. All signs shall be legible and graphically simple. No more than three (3) colors shall be used.

G. Area and Bulk Requirements:

1. Maximum height: Thirty five (35) feet.
2. Minimum Lot Size: One (1) acre for non-residential uses and 1.5 acres for permitted residential dwelling groups. Residential dwelling groups shall contain not less than 3,000 square feet of lot area per dwelling unit.
3. Required Yards: To be determined as part of site plan review.
4. Minimum Area of Dwellings: Same as R-2.

5. Setbacks.

- a. Building line setback from the west right-of-way line of River Road shall not be less than twenty five (25) feet. The entire setback area shall be suitably landscaped.
- b. Building line setback from other public rights-of-way: To be determined as part of site plan review. All setback areas shall be suitably landscaped.
- c. Building line setback from the Niagara River and Little River shall not be less than twenty five (25) feet.

6. Maximum lot coverage by buildings and accessory uses: 40 percent.

7. Minimum landscaped area. Fifteen (15) percent of total lot.

H. Site Plan Review and Approval Provisions

1. Applicability

A site plan approved by the Planning Commission shall be required prior to the issuance of a building permit and/or certificate of zoning compliance for proposed actions which meet one or more of the thresholds defined in the following paragraph. The Building Inspector shall notify an applicant for a building permit or certificate of zoning compliance where site plan approval is required.

The thresholds which determine the need for site plan approval are as follows:

- a. An addition to a legally existing use which requires ten (10) or more new parking spaces or loading docks, or any combination thereof which totals ten (10) spaces or docks.
- b. Alterations or additions to a legally existing structure which would increase the gross floor area by 15 percent or more; and having a construction cost of more than \$5,000.
- c. An addition to legally existing land uses (i.e. non-structural such as parkland) which would increase the developed land area by 15 percent or more.
- d. Any new permitted or special permitted use.

2. Sketch Plan

A sketch plan conference may be held between the Planning Commission and the applicant prior to the preparation and submission of a formal site plan. The objectives of such a conference are: to enable the applicant to inform the Planning Commission of the proposal prior to the preparation of a detailed site plan; to enable for the Planning Commission to review the basic site design concept

and to advise the applicant as to potential problems and concerns; and, to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant should provide the following:

- a. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation; and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
- b. A sketch or map of the area which clearly shows the location of the site with respect to nearby street rights-of-way, properties, easements, the Niagara River and/or other watercourses and other pertinent features; and
- c. A topographic or contour map of adequate scale and detail to show site topography.

### 3. Application for Site Approval

An application for site plan approval shall be made in writing to the Chairman of the Planning Commission and shall be accompanied by supporting information and documentation. If a sketch plan conference was held, the supporting information shall include the elements identified by the Planning Commission at said sketch plan conference. If a sketch plan conference was not held, the applicant shall provide the following information:

- a. Title of drawing, including name and address of the applicant and the person responsible for preparation of such drawings.
- b. North arrow, scale and date.
- c. Boundaries of the property plotted to scale.
- d. Existing watercourses.
- e. Grading and drainage plan, showing existing and proposed contours.
- f. Location, design, type of construction, proposed use and exterior dimensions of all buildings.
- g. Location, design, and type of construction of all parking and truck loading areas, showing ingress and egress.
- h. Provision for pedestrian access.
- i. Location of outdoor storage, if any.
- j. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.

- k. Description of the method of public water supply and sewage disposal and location, design and construction materials of such facilities.
- l. Location of fire and other emergency zones, including the location of fire hydrants.
- m. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- n. Location, size and design and type of construction of all proposed signs.
- o. Location and proposed development of all buffer areas, including existing vegetative cover.
- p. Location and design of outdoor lighting facilities.
- q. Identification of the location and amount of building area proposed for retail sales or similar commercial activity.
- r. General landscaping plan and planting schedule.
- s. An estimated project construction schedule.
- t. Identification of any State or County permits required for the execution of the project.
- u. Record of application for and approval status of all necessary permits from State and County agencies.
- v. Other elements integral to the proposed development as considered necessary by the Planning Commission.
- w. A written statement which describes how the project is consistent with the City of North Tonawanda's adopted LWRP.

4. Review of Site Plan

The Planning Commission's review of the site plan shall include, but not be limited to, the following general considerations:

- a. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- b. Adequacy and arrangement of vehicular traffic, access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- c. Location, arrangement, appearance and sufficiency of off-street parking and loading.
- d. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

- e. Adequacy of stormwater and drainage facilities.
  - f. Adequacy of water supply and sewage disposal facilities.
  - g. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the development parcel and adjoining lands, including the maximum retention of existing vegetation.
  - h. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
  - i. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
  - j. Use of proper and adequate screening devices between parking and service areas as such are viewed from River Road.
  - k. Consistency between the site plan and the City's adopted LWRP.
  - l. Quality and adequacy of views from River Road through the development to the shoreline.
  - m. The extent that proposed uses are water dependent or enhanced.
  - n. Attractiveness of the proposed use or structure(s) as viewed from the Niagara River, Little River, or Barge Canal.
  - o. Adequacy of design and function of waterfront improvements such as bulkheads, docking facilities, launch ramps and sea walls.
  - p. Ability of the use to provide public access to the water's edge.
5. Planning Commission Action on Site Plan

Within forty-five (45) days of the receipt of a completed application for site plan approval, the Planning Commission shall render a decision, file said decision with the City Clerk and mail such decision to the applicant with a copy to the Building Inspector. Said decision shall also be filed with the Board of Appeals if the application requires a special permit. The time within which a decision shall be rendered may be extended by mutual consent of the applicant and Planning Commission.

- a. Upon approval of the site plan, the Planning Commission shall endorse its approval on a copy of the final site plan and shall forward a copy to the applicant, Building Inspector and file same with the City Clerk.
- b. Upon disapproval of a site plan, the Planning Commission shall so inform the Building Inspector. The Building Inspector shall deny a Building Permit or Certificate of Zoning Compliance to the applicant. The Planning Commission shall also notify the applicant in writing of its decision and its reasons for disapproval. Such disapproval shall be filed with the City Clerk.



6. Performance Guarantee

No Certificate of Zoning Compliance shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Common Council after consultation with the Planning Commission, Building Inspector, City Attorney and other appropriate parties.

7. Inspection of Improvements

The Building Inspector shall be responsible for the overall inspection of site improvements including coordination with the Planning Commission and other officials and agencies, as appropriate.

8. Integration of Procedures

Whenever the particular circumstances of the proposed development require compliance with either the special permit procedure in this Ordinance or other requirements of the City, the Planning Commission shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.

I. Supplemental Regulations and Exceptions

See Section 15.

## II. SECTION 20 - DEFINITIONS

A. The following definitions shall be added to subsection

B - definitions:

39. Local Waterfront Revitalization Program (LWRP) means the local program to implement the New York State Coastal Management Program within the City of North Tonawanda as approved by the Common Council and the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981 (Article 42 of the Executive Law of New York State).
40. Boatyard - A facility for servicing all types of watercraft, as well as providing supplies, storage and fueling facilities, and with facilities for the retail sale, rental, or charter of boats, motors and marine equipment.
41. Light Industry - The following manufacturing uses:
  - (1) Laboratories engaged in research, testing and experimental work, including any process normal to laboratory practice and technique.
  - (2) The manufacture, compounding, assembling and/or treatment of articles or merchandise from previously prepared materials provided that no chemical process is involved in the manufacturing process.
  - (3) The manufacture and/or assembly of electronic devices and electrical appliances, provided that all necessary and approved safeguards are employed to prevent hazard and annoyance to the community.
  - (4) The manufacture and/or assembly of musical instruments, novelties, toys or related products, business machines, custom built boats, and grinding wheels.
  - (5) The manufacture, compounding, processing and storage of candy and confections, frozen foods, cosmetics, pharmaceutical products, toiletries and food products.
  - (6) Wholesale business and storage for the following types of commodities: clothing, drugs, dry goods, packaged foods, furniture, hardware and beverages.
  - (7) Wood and lumber, bulk processing and woodworking including planing mills, excelsior, sawdust and wood preserving treatment.
  - (8) The manufacturing of paper and paper products not involving the reduction and processing of wood pulp and fiber.
  - (9) The manufacture of precision tools.

(10) The treatment and processing of metal products.

(11) Other light industrial uses which in the opinion of the Board of Appeals, are similar in nature and scale to those identified herein.

42. Marina - A facility for the berthing and fueling of five (5) or more recreational watercrafts.
43. Business or Professional Offices - The office or studio of a physician, surgeon, dentist or other person licensed by the State of New York to practice a healing art, lawyer, architect, artist, engineer, real estate broker or salesman, insurance broker or agent, teacher, and persons employed in similar executive or administrative occupations.
44. Water Dependent Industry - Any manufacturing use having one (1) or more of the following characteristics:
- (a) Uses requiring large quantities of water for processing and cooling purposes (e.g. fish processing plants, pumped storage processing plants).
  - (b) Uses that rely heavily on the waterbound transportation of raw materials or products which are difficult to transport on land, thereby making it critical that a site near shipping facilities be obtained.
  - (c) Uses that operate under such server time constraints that proximity to shipping facilities becomes critical (e.g. firms processing perishable foods).
45. Townhouse Development - A development at independent single family dwelling units with a common party wall between adjacent units and each having a private outside entrance.

CITY OF NORTH TONAWANDA  
LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)  
LOCAL CONSISTENCY LAW

A local law adding Article 2 to Chapter 37 of the code of the City of North Tonawanda.

ARTICLE 2 - GENERAL PROVISIONS

SECTION 37-20 - TITLE

This local law shall be known and may be cited as the City of North Tonawanda LWRP Consistency Law.

SECTION 37-2 - PURPOSE

The purpose of this local law is to provide for the protection and beneficial use of the natural and man-made resources within the waterfront area of the City of North Tonawanda by ensuring that certain actions to be undertaken, approved, or funded by city agencies will be undertaken in a manner consistent with the policies and purposes of the City of North Tonawanda Local Waterfront Revitalization Program.

SECTION 37-22 - AUTHORITY

This law is adopted under the authority of the Municipal Home Rule Law and Article 42 of the Executive Law.

SECTION 37-23 - APPLICABILITY

All agencies of the City of North Tonawanda must comply with this local law, prior to directly undertaking, approving, or funding any action within the waterfront area when such action is classified as Type I or Unlisted under Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

SECTION 37-24 - SEVERABILITY

The provisions of this local law are severable. If any part of this local law is found invalid, such finding will apply only to the particular provision and circumstances in question. The remainder of this local law, and the application of the disputed provision to other circumstances, will remain valid.

SECTION 37-25 - DEFINITIONS

- (a) "Action means either a "Type I" or "Unlisted" action as defined in SEQR regulations at 6NYCRR 617.2.
- (b) "EAF" means Environmental Assessment Form as defined in 6NYCRR 617.2 (1).
- (c) "EIS" means Environmental Impact Statement as defined in 6 NYCRR 617.2 (m).

- (d) "Local Waterfront Revitalization Program (LWRP)" means the local program to implement the NYS Coastal Management Program within the City of North Tonawanda as approved by the Common Council and the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981 (Article 42 of the Executive Law of New York State).
- (e) "Part 617" means the State Environmental Quality Review Regulations. (Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State on New York).
- (f) "SEQR" means the State Environmental Quality Review Regulations (Article 8 of the Environmental Conservation Law, which is Chapter 43-b of the Consolidated Laws of the State of New York).
- (g) "City" means The City of North Tonawanda.
- (h) "City Agency" means any board, department, office, other bodies or officers of the City of North Tonawanda.
- (i) "Common Council" means the Common Council of the City of North Tonawanda.
- (j) "CAF" means Coastal Assessment Form as adopted by the Common Council.
- (k) "Waterfront Area" means that portion of the NYS Coastal Area within the City of North Tonawanda as delineated in the City of North Tonawanda Local Waterfront Revitalization Program.
- (l) All other terms of which definitions are given in SEQR and/or Part 617 shall have the same meanings in this local law.
- (m) "City Clerk's Office" means the City of North Tonawanda agency responsible for overall management and coordination of the LWRP.
- (n) "Waterfront Commission" means the City of North Tonawanda agency responsible for review of LWRP actions affecting the City's waterfront area and resources.
- (o) "Planning Commission" means the City of North Tonawanda Planning Commission.