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City of Amsterdam Zoning Law Table of Contents

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CITY OF AMSTERDAM

Chapter 250, ZONING

[HISTORY: Adopted by the Common Council of the City of Amsterdam 4-21-1992 by L.L. No. 2-1992. Amendments noted where applicable. Adopted by the Common Council of the City of Amsterdam **DATE** by L.L. **No. _____**]

ARTICLE I, Title, Scope and Purpose

SECTION 1 - Title

This chapter shall be known and may be cited as the "Zoning Law of the City of Amsterdam, New York."

SECTION 2 - Scope

This chapter regulates and restricts the location, construction, alteration, occupancy and use of buildings and structures and the use of land within the City of Amsterdam and for said purposes divides the city into zoning districts.

SECTION 3 - Enacting legislation and purposes

This chapter is enacted pursuant to the General City Law of the State of New York to promote and protect the public health, safety and general welfare, specifically including the following additional purposes:

- A. To protect the character and maintain the stability of residential, institutional, commercial and light industrial areas within the city and to promote the orderly and beneficial development of such areas.
- B. To regulate the intensity of use and to prescribe the area of open spaces surrounding buildings necessary to provide adequate light and air, to provide privacy and convenience of access and to protect the public health.
- C. To regulate the location of buildings and to fix reasonable standards for development to which structures and uses shall conform.
- D. To prohibit new uses, buildings and structures, which are incompatible with the character of development or the permitted uses within specified zoning districts.
- E. To limit such additions to and alterations of existing buildings and structures as would not comply with the restrictions and limitations imposed hereunder, including the gradual elimination of certain nonconforming uses, with prior approval of the Planning Commission.
- F. To limit congestion in the public streets by providing for adequate off-street parking of motor vehicles and for the loading and unloading of commercial vehicles.
- G. To provide protection against fire, explosion, noxious fumes and similar hazards.
- H. To conserve the taxable value of land and buildings throughout the city, while enhancing the appearance of the city as a whole.
- I. To protect the general environment and to achieve compliance with the objectives of applicable state and federal regulatory programs.

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ARTICLE II, Definitions

SECTION 4 -Definitions and word use

A. DEFINITIONS - Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter, have the meanings herein indicated:

ACCESSORY STRUCTURE OR USE — A structure or use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use.

ALTERATION — As applied to a building or structure, a change or rearrangement in the structural parts of a building or an enlargement, whether by extending on the front, rear or on a side, or by increasing the height or the moving of such structure from one location or position to another.

ALTERNATE-CARE FACILITY — A facility designed for housing Alternate Care Facility clients who are unable to live and work independently at a particular time and for the providing for his or her specific needs. For purposes of this chapter, "alternate care facility" includes the following specific types of supervised facilities: (See individual definitions for the following)

1. Community Residence
2. Halfway House
3. Supervised Living Facility
4. Supportive Living Facility
5. Family Care Housing
6. Housing for the Disabled
7. Rehabilitation Services Facility

AMPHITHEATRE – An outdoor area or structure specifically designed as a place for events, plays, and movies.

AMUSEMENT, INDOOR COMMERCIAL – The serving of food or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller skating or ice skating, billiards, pool, and dancing halls.

ANIMAL HOSPITAL – Any building or portion of a building designed or used for the care, observation, or treatment of domestic animals.

AREA AND BULK REGULATIONS — The combination of controls, which establish the minimum size of a lot and the maximum size of a building and its location on such lot.

ARTIST’S STUDIO – Work space for artists or artisans, including individual practicing one of the fine arts or skilled in an applied art or craft.

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ATHLETIC FACILITY – An athletic recreational use conducted indoors or out including athletic fields, skateboard park, swimming, bathing, gymnasium, tennis, handball, basketball courts, batting cages, trampoline facilities.

AUDITORIUM – A building or structure designed or intended for use for the gathering of people as an audience to hear music, lectures, plays, and other presentations.

AUTOMOBILE BODY SHOP — A facility for vehicular body work, including painting thereof by any means; any rebuilding, reconditioning or collision services involving frame and fender straightening or repair, or any dismantling or disassembly of frame or exterior parts is not an automobile service station.

AUTOMOBILE RENTAL/LEASING ESTABLISHMENT – Leasing or renting of automobiles, motorcycles, and light load vehicles.

AUTOMOBILE SALES – Storage and display for sale of more than two motor vehicles or any type of trailer provided the trailer is unoccupied.

AUTOMOBILE SERVICE STATION (MAJOR) — A facility that is used for major vehicular repairs, rebuilding, removal of parts and the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including the sale of motor vehicle accessories, and which include facilities for lubricating

AUTOMOBILE SERVICE STATION (MINOR) — A facility for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including the sale of motor vehicle accessories, and which may include facilities for lubricating and other minor servicing of motor vehicles.

BANK – A building that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

BANQUET HALL – An establishment which is rented by individuals or groups to accommodate private function including, but not limited to, banquets, weddings, anniversaries and other similar celebrations. Such a use may or may not include: 1) kitchen facilities for the preparation or catering of food; 2) the sale of alcoholic beverages for on-premise consumption, only during scheduled events and not open to the general public; and 3) outdoor gardens or reception facilities.

BASEMENT — A story partly underground but having at least half (½) of its height above the average level of the adjoining ground.

BATHHOUSE – See Sauna.

BED-AND-BREAKFAST ESTABLISHMENT — An owner occupied private dwelling in which at least one and not more than four rooms are offered for rent for transient

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occupancy, in which overnight lodging and breakfast are offered to such occupant and in which no public restaurant is maintained.

BILLBOARD (SIGN ADVERTISING) — A sign or structure which directs attention to a product, business activity, service or entertainment which is primarily conducted, sold or offered elsewhere than upon the premises on which such sign is located, or to which it is affixed.

BOARDING OR ROOMING HOUSE — An owner occupied, private dwelling in which at least two but not more than six rooms are offered for rent, whether or not table board is furnished to lodgers, and in which no transients are accommodated and no public restaurant is maintained.

BOARD OF APPEALS — The Zoning Board of Appeals of the City of Amsterdam as provided for in Article XII of this chapter.

BOAT REPAIR FACILITY – A facility where boats are repaired and stored until repairs are complete.

BOAT SALES/RENTAL – A marine retail sales use in which boats are rented or sold.

BUFFER ZONE — A strip of land, identified in the chapter, established to protect one type of land use from another with which it is incompatible.

BUILDABLE AREA — The space remaining on the lot after the minimum open space requirements (coverage, yards, setbacks) have been met.

BUILDING — Any structure of more or less permanent construction, which is permanently affixed to the land, wholly or partially enclosed within exterior walls and a roof affording shelter to persons, animals, property or business activity and requires a building permit.

BUILDING COVERAGE — The amount of land covered or permitted to be covered by a building or buildings, measured in terms of a percentage of total lot area. Such coverage shall be measured on a horizontal plane at mean grade level and excludes uncovered porches, terraces and steps.

BUILDING INSPECTOR — That city employee(s) appointed by the Mayor and charged with the responsibility of administering and enforcing this chapter as well as the New York State Uniform Fire Prevention and Building Code, related § 7302 of the New York State Education Law and other related regulations pertaining to the development of structures and use of land within the City of Amsterdam, which employee shall be certified as a building official by the New York State Building Codes Council.

BUS LOT – A lot or land area used for the storage or layover of passenger buses or motor coaches.

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CAR WASH – The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

CELLAR — A story partly or entirely below grade, which has more than half (½) of its height, measured from floor to ceiling, below the average level of the adjoining ground.

CEMETERY – Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities.

CERTIFICATE OF OCCUPANCY — Official certification that a premise conforms to the provisions of this chapter the Building Code and other applicable regulations and may be used or occupied.

CHANGE IN LAND USE — Any proposed land use change, which is allowable in the current zone but listed as a different use.

CHILD CARE — A facility that provides a program of care for children away from their home for more than 3 hours but less than 24 hours a day, and is operated in accordance with all applicable New York State and Federal rules regulations and laws. Child Care facilities may include:

1. **CHILD DAY CARE CENTER** — A New York State licensed program or facility, which is not a residence in which child day care is provided on a regular basis to more than six (6) children for more than three (3) hours per day, per child for compensation or otherwise, as regulated by New York State Social Services Law.
2. **FAMILY DAY CARE HOME** — A New York State registered program operated in a family home in which child day care is provided on a regular basis to three (3) to six (6) children for more than three (3) hours per day per child, for compensation or otherwise as regulated by New York State Social Services Law.
3. **GROUP FAMILY DAY CARE HOME** — A New York State licensed program operated in a family home in which child care is provided on a regular basis for seven (7) to twelve (12) children for more than three (3) hours per day per child for compensation or otherwise as regulated by New York State Social Services Law.

CHURCH – A building used for nonprofit purposes by a recognized and legally established sect solely for the purpose of worship.

CIVIC CENTER – An area developed or to be developed with any of the following public buildings or uses, including offices, libraries, playgrounds, parks, assembly halls, police stations, fire stations.

CLUB, MEMBERSHIP — Premises of an organization of persons who meet periodically to promote some non-profit social, educational, athletic, service or recreational objective and who cater exclusively to members and their guests.

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CLUSTER DEVELOPMENT — A development pattern in which uses are grouped clustered through a density transfer within a particular development, rather than spread evenly throughout a parcel as in conventional lot-by-lot development.

COMMERCIAL – Any activity conducted with the intent of realizing a profit from the sale of goods and services to others.

COMMUNICATION FACILITIES – Such uses and structures as radio and television transmitting and receiving antennas, radar stations, and microwave towers.

COMMUNITY PARK OR PLAYGROUND – Land managed by the public and set aside for public use which may or may not have develop recreational facilities, such as playground, tennis courts, horse and bike trails, baseball fields, picnic areas, swimming pools, and/or bathrooms.

COMMUNITY RESIDENCE — A dwelling providing room and board, recreation and rehabilitative services for the mentally disabled under responsible supervision.

COMPREHENSIVE PLAN — A document or series of documents prepared and adopted by the Planning Commission setting forth policies for the future growth and development of the city. Such plan may be endorsed or adopted by the Common Council. Formerly referred to as the Master Plan.

CONDOMINIUM — Multiple form of housing units in which the individual owns their own unit and a proportionate share of the common elements. Maintenance of the common elements is administered by the Home Owners or Condominium Association.

CONFERENCE CENTER – A facility used for service organizations, business and professional conferences, and seminars. Accommodations can include sleeping, eating, and recreation.

COPY SHOP – A facility for the reproduction and copying of printed material or drawings. This does not include sign shops, or similar large scale operations.

CONTRACTOR'S STORAGE YARD — Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, machinery or vehicles or parts there of which are in active use by a construction contractor.

CONVENIENCE FOOD STORE — A facility of 3,000 square feet or less of gross floor area with any combination of the following primary characteristics:

1. Retail sale of food and beverages for consumption off-premises;
2. Sale of prepared foods, such as sandwiches, soups, ice cream, etc., for consumption on or of the premises, and may include indoor seating for such purposes; and/or

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3. Sale of gasoline or other fuel, oil or other lubricating substances or other motor vehicle accessories and generally of a self-service type.

CONVERSION — A change in use or occupancy of a building, generally by alteration or by other reorganization, as to increase the number of families or dwelling units within a structure.

COUNTRY CLUB – A club with recreation facilities for members, their families, and invited guests.

CREMATORIUM – A location containing properly installed, certified apparatus intended for the use in the act of cremation.

CULTURAL FACILITY - Services to the public, such as but not limited to museums, art galleries, and libraries by a public or private, nonprofit facility.

DENSITY (NET) — The ratio of lot area per family or dwelling unit on a lot.

DEVELOPMENT — The establishment of a use on a lot or in relation to a structure or the erecting or structural alteration of a structure.

DISTRICT (ZONING or OVERLAY) — An area or zone of the city within which uniform requirements regulate the use of land and the height, bulk, density and setback of structure.

DRIVE-IN ESTABLISHMENT — A premises constructed to cater to the motoring public, whether or not serving pedestrians as well as automobile trade, and used for the sale to the public of any product and providing curbside or window service.

DWELLING — A permanent building designed or used principally as the independent living quarters for one or more families.

DWELLING, MULTIPLE FAMILY — A detached, semidetached or attached building or portion thereof, which contains three or more dwelling units.

DWELLING, SINGLE-FAMILY — A detached building containing one dwelling unit only.

DWELLING, TWO-FAMILY — A detached or semidetached building containing two dwelling units only.

DWELLING UNIT — A building or entirely self-contained portion thereof containing complete, separate, independent housekeeping facilities for only one family, including any domestic servants employed on the premises and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. A boardinghouse, dormitory, motel, inn, nursing

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home, fraternity, sorority or other similar building shall not be deemed to constitute a dwelling unit.

ENTERTAINMENT, LIVE – A musical, theatrical, dance, cabaret, or comedy act performed by one or more persons. Any form of dancing by patrons and guests at an eating or drinking establishment or bar is live entertainment.

EQUIPMENT RENTAL – The temporary leasing of tools, materials, or construction equipment, excluding equipment used for excavation, grading, or similar tasks or processes.

FAMILY — One or more than one person occupying a dwelling unit and living as a single nonprofit housekeeping unit with not more than four roomers, boarders or lodgers. A roomer, lodger or boarder residing with a family shall mean a person or group of persons residing within a household, not related by blood, marriage or adoption to the nonprofit housekeeping unit who pay a valuable consideration for such residence and who do not occupy such space within the household as an incident of employment herein.

FAMILY CARE HOUSING — A dwelling providing room, board and supervision for patients who are maintained on an inpatient status by a state-operated psychiatric facility.

FENCE — An unroofed, enclosing structure erected for the purpose of preventing passage or view.

FINANCIAL INSTITUTION – Any trust company, savings bank, industrial bank, savings and loan association, building and loan association, commercial bank, credit union, federal association, investment company, or other business association, which is chartered under federal or state laws, solicits, receives, or accepts money or its equivalent on deposit and loans money as a regular basis.

FLOOD, ONE-HUNDRED-YEAR — The highest level of flood that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year). The official source of the 100-year flood information shall be the Flood Insurance Rate (F.I.R.M) Map.

FLOODPLAIN AREA WITH SPECIAL FLOOD HAZARDS — Maximum area of the floodplain that, on the average, is likely to be flooded once every 100 years (i.e., that has a one-percent chance of being flooded every year). The official source of the Special Flood Hazard Area information shall be the Flood Insurance Rate (F.I.R.M) Map.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

FLOOD PROTECTION ELEVATION — The one-hundred-year-flood elevation plus one (1) additional foot of elevation.

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FLOODWAY — The channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of a given magnitude.

FLOOR AREA — The sum of the gross horizontal area of the floor or floors of a building as measured from the exterior faces of exterior walls or from the centerline of walls separating two buildings. Floor space shared in common with other dwelling units or used for storage purposes or the operation and maintenance of the building shall not be included in computing floor area.

FLOOR AREA, LIVABLE — The sum of the gross horizontal area of a dwelling unit measured from the exterior walls or from the center of a party wall, excluding roof, cellar and garage. Livable floor area shall include spaces such as utility rooms, bathrooms, closets, hallways and attic space having a clear height of at least six feet from the finished floor level to pitch of roof rafter, with a clear height of seven feet six inches (7'-6") from the finished floor level to the ceiling level over 50% of the area of such attic space.

FRONTAGE — That side of the lot nearest the street right of way. A corner lot shall be considered to have two such frontages.

FUNERAL HOME – A building used for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation.

GARAGE, DETACHED – A detached structure not to exceed 500 square feet, which is accessory to a single detached dwelling unit to which there is legal vehicular access from a public right-of-way, designed for the storage of motor vehicles or boats of the residents of the single detached dwelling.

GARAGE, PRIVATE — An enclosed space for the storage of one or more vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

GARAGE, REPAIR — See Automobile Service Major and Minor.

GARDEN CENTER – A place of business where retail and wholesale products and produce are sold to the consumer. These centers which may include a nursery and/or greenhouses, import most of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

GARDENING — Private raising of plants, flowers, fruit and vegetables.

GARDENING, COMMUNITY — A garden plot which is shared by individuals or families.

GASOLINE STATION — See "Automobile Service Station."

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GOLF COURSE – An area or course for playing golf, consisting of at least nine holes, except miniature golf, within which the playing area is not artificially illuminated.

GOVERNMENTAL BUILDING – A building or structure owned, operated, or occupied by governmental agency to provide governmental service to the public.

GRADE, FINISHED — The elevation at which the finished surface of the surrounding lot intersects the walls and supports of a structure.

HALFWAY HOUSE — A community residence providing twenty-four-hour on-site responsible supervisory staff for short-term residents.

HEALTH CLUB – A facility where members or nonmembers use equipment or space for the purpose of physical exercise.

HEIGHT, BUILDING — The vertical distance measured from the mean elevation of the finished grade along the side of the building with the lowest finished grade to the highest point on the coping of a flat roof, to the deck line of mansard roofs and the average height between eaves and ridge for gable, hip and gambrel roofs, but not including chimneys, spires, towers, elevator penthouses, tanks and similar projections.

HELIPORTS – An area designed to be used for the landing or takeoff of helicopters including operations facilities, such as maintenance, loading and unloading, storage, fueling, or terminal facilities.

HOME IMPROVEMENT STORE – The retail sale of a diverse range of hardware and related materials generally used in the maintenance, repair, or construction of buildings or other structures, including lawn and garden supplies.

HOME OCCUPATION — A profession or other occupation customarily conducted within a dwelling by one or more resident members of the family residing therein and clearly incidental and secondary to the principal use of the lot for residential purposes. The term "Home Occupation" shall include the provision of day-care services for four or fewer children, who are not residents of the dwelling. (See Section 45: Home Occupations and Home Offices for specific regulations)

HOME OFFICE — An office for record keeping, administration of work and computer related work, which is clearly incidental and secondary to the principle use of the lot for residential purposes. A home office shall be operated by and employ only residents of the dwelling unit.

HOSPITAL — A building containing beds for four or more human patients and used for temporary occupation by the sick or injured, the medical diagnosis, treatment or other care of human ailments. For purposes of this chapter, the term "Hospital" shall not include the term "Alternate Care Housing."

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HOSPITAL, ANIMAL or VETERIARIAN'S OFFICE — An establishment for the medical and or surgical care of sick or injured animals.

HOTEL — A multiple dwelling or any part there of which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may contain one or more dining rooms.

HOUSING FOR THE DISABLED — A facility for those persons who are unable to function in society without assistance and/or supervision because of their physical, mental, or emotional deficiencies.

JUNKYARD — An area of land with or without buildings used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded materials such as wastepaper, rags or scrap material; or used building materials, house furnishings, machinery or parts thereof with or without dismantling, processing, salvage, sale or other use or disposition of the same.

JUNKYARD, MOTOR VEHICLE — An area of land with or without buildings used for or occupied by a deposit, collection or storage, outside a completely enclosed building of used or discarded motor vehicles or parts thereof; with or without the dismantling, wrecking, salvage, sale or other use or disposition of the same. A deposit, collection or outdoor storage on a lot of one or more motor vehicles no longer in condition for legal use on the public highways or parts there of for one week or more in a residential district or for three weeks or more in any nonresidential district shall constitute a motor vehicle junk yard.

KENNEL – A structure used for the harboring for hire of four or more dogs or cats, more than six months old.

LAUNDRY FACILITY- A business devoted to the cleaning of clothes, fabrics or garments; either by means of self-service or drop-off.

LOT — A portion or parcel of land having defined boundaries and considered as a unit, devoted to a specific use or occupied by a structure or group of structures that are united by a common interest, use or ownership and including customary accessory structures, uses, open spaces and yards.

LOT AREA — The total area of a lot within lot lines.

LOT, CORNER — A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135°. The point of intersection of the street right-of-way lines is the corner.

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LOT, DEPTH — The minimum horizontal distance from the street line of a lot to the rear lot line of such lot, measured in the general direction of the side lot lines.

LOT, INTERIOR — A lot other than a corner lot.

LOT OF RECORD — A legally existing lot at the time of adoption of this chapter duly filed and recorded in the Montgomery County Clerk's office as either an individual parcel of land or part of an approved subdivision.

LOT WIDTH — The minimum horizontal distance between the side lot lines measured at right angles to the lot depth.

LUMBERYARD – An establishment where lumber and other building materials such as brick, tile, cement, insulation, roofing materials, and the like are sold at retail.

MACHINE SHOP – Shops where lathes, presses, grinders, shapers, and other wood- and metal- working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops.

MAIL SERVICES – A commercial business which conducts the retail sale of stationary products, provides packaging and mail services (both US Postal and private service), and provides mailboxes for lease.

MANUFACTURING, HEAVY – An establishment engaged in manufacturing, assembly, fabrication, packaging, or other industrial processing of produces primarily for extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibrations beyond its property line. This term includes but is not limited to: chemical manufacturing; stone work or concrete product manufacturing; fabrication of metal products; manufacturing of agricultural, construction, or mining machinery; motor vehicle manufacturing; lumber milling; ship or boat construction; and permanent concrete/batch plant.

MANUFACTURING, LIGHT – Product assembling or mixing, where previously processed components or manufactured parts produced off-site are fitted together into a complete machine or blended together to form a non-combustible and non-explosive product. Product packaging, including bottling, canning, packing, wrapping, and boxing of products assembled or manufactured off-site. The assembling or packaging shall not produce noise, vibration, hazardous waste materials, or particulate that creates significant negative impacts to adjacent land uses. Odors produced on-site shall not negatively affect other businesses or properties in the area. Examples of assembling include but are not limited to the production of the following: clothes, furniture (where wood is milled off-site); pharmaceuticals; hardware; toys; mechanical components; electric or electrical components; small vehicle assembly; and computer software. Examples of packaging include facilities for bottling beverages, canning and wrapping foods, and boxing electrical components.

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MAUSOLEUM – A building containing above-ground tombs.

MICROBREWERY – A facility at which beer, fermented on the premises, is bottled and sold. Can be in conjunction with a bar, tavern, or restaurant use.

MINI-WAREHOUSE - See Self-Storage Facility.

MINING AND MINERAL EXTRACTION - Underground excavation of materials used for sale, exchange, or commercial usage. A permit from NYSDEC is required for any proposed excavation exceeding 1,000 tons or 750 cubic yards, whichever is greater, within a 12 month period.

MOBILE HOME/MANUFACTURED HOUSING — A factory built, single family structure with a permanent chassis, transportable in one or more sections, which is equipped for year round occupancy and contains the same plumbing, heating and electrical systems as immobile housing. A mobile home/manufactured house meets the National Manufactured Home Construction and Safety Standards Act, commonly known as the HUD code.

MOTEL — A multiple dwelling, intended for transient occupancy primarily by motorists, not over two stories in height, in which the exit from each dwelling unit or sleeping room is directly to the exterior, including but not limited to such terms as "motor court," "motor hotel" or "tourist court."

NON-CONFORMING BUILDING OR USE — An existing building which does not conform to the district regulations for lot area, width or depth, front, side or rear yards; maximum height; lot coverage; or minimum livable floor area per dwelling unit after the adoption or amendment of this chapter or an existing use which does not conform to the applicable use regulations for the district in which such use is located after the adoption or amendment of this chapter.

NURSERY – Any land used to raise trees, shrubs, flowers, and other plants for sale or for transplanting.

NURSING HOME — A type of alternate care facility, which provides lodging, meals and continuing nursing care for compensation to convalescent or chronically ill persons. Includes convalescent home and rest home.

OFFICE, MEDICAL – A building used exclusively by physicians, dentists, and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no over-night patients shall be kept on the premises.

OFFICE, PROFESSIONAL – Professional or government offices including: accounting, auditing and bookkeeping services, advertising agencies, architectural, engineering, planning, and surveying services; counseling services; court reporting services; data

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processing and computer services; detective agencies and similar services; educational, scientific, and research organizations; employment, stenographic, secretarial, and word processing services; government offices including agency and administrative office facilities; management, public relations, and consulting services; photography and commercial art studios; writers and artists offices outside the home.

OPEN AREA, REQUIRED — Area of a lot, which shall be a properly maintained combination of natural, not artificial, lawn, trees, shrubs and other plant material.

PARKING LOT — Land, which is open and used to provide four or more off-street parking spaces.

PARKING SPACE, OFF-STREET — A space, which is out of the public right-of-way and is available and adequate for the parking of one motor vehicle.

PARKING STRUCTURE – A structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

PERSONAL SERVICE ESTABLISHMENT – An establishment which offers specialized goods and services purchased frequently by the consumer. Included are barbershops, beauty shops, massage facilities, chiropractic clinics, garment repair, laundry cleaning, oppressing, dyeing, tailoring, shoe repair, and other similar establishments.

PLANNED DEVELOPMENT — A structure or group of structures designed to be maintained and operated as a unit in single ownership or control by an individual, partnership, corporation or cooperative and which has certain facilities in common, such as yards, open space, recreation areas, garages and parking facilities.

PLANNING COMMISSION — The Planning Commission of the City of Amsterdam.

PREMISES — A lot together with all the structures and uses thereon.

PRINCIPAL BUILDING OR USE — The main or primary building or use on a lot.

PRINT SHOP – An establishment in which the principle business consists of duplicating and printing services using photocopy, blueprint, or offset printing equipment, including publishing, binding, and engraving.

PROHIBITED USE — Any use, which is not listed as a permitted, special or accessory use in the Use Regulations in Article III of this chapter shall be considered a prohibited use under this chapter.

PUBLIC UTILITY – Shall mean any person, firm, corporation or governmental agency, duly authorized to furnish the public, under governmental regulation electricity, gas,

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water sewage treatment, steam, cable television, or related communication service. This definition shall not bestow any special status or standing not already provided by State or Federal Law.

RECREATION, COMMERCIAL – Recreational uses conducted indoors or out including but not limited to miniature golf, laser tag, amusement parks, and motorized cart tracks.

RECREATIONAL VEHICLE — A vehicular type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreation, camping and travel use and including but not limited to travel trailers, truck campers; camping trailers and self-propelled motor homes.

RECYCLING FACILITY – Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled, or handled, including but not limited to scrap metals, paper, bottles, and other such materials.

REHABILITATION SERVICES FACILITY — A professionally planned and operated treatment facility designed to improve the functioning of physically, mentally or emotionally disabled persons in their skills of daily living.

REPAIR SERVICES – Establishments primarily engaged in hr provision of repair services to individuals and households, rather than businesses, but excluding automotive repair. Typical uses include appliance repair shops, shoe repair, and watch or jewelry repair shops.

RESEARCH AND DEVELOPMENT FACILITY – An establishment which conducts research, development, or controlled production of high-technology electronic, industrial, or scientific products or commodities for sale or laboratories conducting educational or medical research or testing. This term includes but is not limited to a biotechnology firm or a manufacturer of nontoxic computer components.

RESIDENTIAL DISTRICT — For purposes of this chapter, the Low Density (LD), Medium Density (MD) and Medical Residential (M/R) zoning districts shall be construed to be primarily residential districts. The Employment District (ED) and the Downtown Core (DC) allow residential uses.

RESTAURANT – A building or portion of a building wherein food and beverages are available for on-site and off-site consumption.

RETAIL SALES ESTABLISHMENT – A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

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SANITARY LANDFILL AND OTHER DISPOSAL FACILITIES AND SERVICE ESTABLISHMENTS — A disposal site in which refuse, or other suitable cover material, are deposited and compacted in accordance with an approved plan.

SAUNA – A steam bath or heated bathing room used for the purpose of bathing, relaxation, or reducing utilizing steam or hot air as a cleaning, relaxing, or reducing agent.

SCHOOL – An institution for the teaching of children or adults including primary and secondary schools, colleges, professionals schools, dance schools, business schools, trade schools, art schools, and similar facilities.

SELF-STORAGE FACILITY- A building separated into relatively small, lockable individual units, typically with a garage door-style opening, that provides storage.

SENIOR CITIZEN — A person 55 years of age or older.

SENIOR CITIZEN HOUSING — A housing facility consisting of more than one structure on a single lot specifically designed to meet the needs of the elderly. Dwellings, whether designed for single-family, two-family or multifamily occupancy designated exclusively for occupancy by elderly and physically handicapped persons. Such housing typically has wider doorways, elevators that can accommodate wheelchairs, special support and hand bars and bathroom and kitchen facilities designated specifically for the elderly or physically handicapped. The dwellings may also be supported by personal care facilities, central recreation areas and accessory medical facilities. Such housing may be private or subsidized under one or more governmental programs.

SETBACK — The minimum horizontal distance from the front, side or rear property line to any structure, roadway, parking area, accessory building or other such improvement except necessary driveways.

SHED – An accessory building which is no larger than 12’x12’x12’.

SHOPPING CENTER – A group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations, and protection from the elements.

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

SIGN — Any material, structure or device or part there of composed of lettered or pictorial matter which is located out of doors or on the exterior of any building, including illuminated window signs over two square feet in area located within three feet of the window surface and intended to be viewed from the exterior of the building, displaying

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an advertisement, announcement, notice or name, and includes sign frames, billboards, signboards, painted wall signs, hanging signs, illuminated signs, canopies, awnings, pennants, fluttering devices, projecting signs or ground signs and shall include any declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business or cause when the same is placed in view of the general public. However, a sign shall not include any display of official court or public office notices or any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious group.

SIGN, ACCESSORY — A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

SIGN, ILLUMINATED — A sign illuminated by electricity, gas or other artificial light either from the interior or exterior of the sign, and including reflective and phosphorescent light.

SIGN, NONACCESSORY — A sign or structure, including but not restricted to billboards, which directs attention to any product, business activity, service or entertainment which is primarily conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

SIGN, OBSOLETE — A sign that advertises a nonexistent product, place, or event.

SIGN, SURFACE AREA OF — The entire area within a single, continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of the same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. Only one side of a double-faced sign shall be included as surface area of such sign.

SITE PLAN — That map or drawing and related development information submitted for review to the Planning Commission in accordance with the requirements and procedures specified in Article VII of this Zoning Ordinance.

SPECIAL USE PERMIT — Permit issued by the Planning Commission according to the requirements and procedure established by Article VIII of this chapter, authorizing the commencement of a particular special use.

SPECIAL USE OR SPECIAL PERMITTED USE — A use which is deemed acceptable for the public welfare within a given neighborhood, district or districts, but which is potentially incompatible with other uses provided therein. The use shall be there for subject to approval by the Planning Commission and to conditions set forth for such use as well as the other applicable provisions of this chapter.

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STORAGE, COMMERCIAL – The storage of goods or materials for sale in a business located on the premises.

STORY — That part of any building, exclusive of cellars but inclusive of basements, comprised between the levels of one finished floor and the level of the next highest finished floor or if there be no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

STREET — A public or private way, which affords the principal means of access to abutting properties.

STREET LINE — The dividing line between a lot and a street right-of-way.

STRUCTURE — A static construction of materials, the use of which requires a fixed location on the ground or attachment to an object having such fixed location. Structures shall include, among others, buildings, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, walls, fences, swimming pools, gasoline pumps, billboards, signs and mobile dwellings.

SUPERVISED LIVING FACILITY — A community residence or group home providing twenty-four-hour on-site responsible supervisory staff for long-term residents.

SUPPORTIVE LIVING FACILITY — A community residence providing responsible supervision for residents.

SWIMMING POOL — Any swimming pool, tank, depression or excavation or other structure, which shall cause the retaining of water to a greater depth than twenty four (24) inches. The word "pool" shall be construed to mean "outdoor water pool." "Swimming Pool" shall not be construed to mean any natural body of water or any body of water created and used for industrial purposes.

TAVERN – An establishment used primarily for the serving of alcoholic beverages by the drink to the general public and where food or packaged alcoholic beverages may be served or sold only as an accessory to the primary use.

TENNIS COURT – A commercial facility for the playing of tennis.

THEATRE – An outdoor or indoor area, building, part of a building, structure, or defined area utilized primarily for rehearsal or research and development related to the presentation of film, television, music video, multimedia, or other related activities.

TOWNHOUSE — A building containing two or more dwelling units each of which has primary ground floor access to the outside and which are attached to each other by common walls without openings. A stand-alone townhouse is considered a two-family dwelling, provided there are no more than two dwelling units within the structure. Three

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or more townhouse structures or dwelling units per lot are considered a multiple family dwelling.

TRANSPORTATION FACILITY – Individual modal or multi-modal conveyances and terminals; within a corridor, facilities may be of local, regional, or statewide importance. Examples of facilities are highways, rail transit lines, transit stations, bicycle paths, and river ports.

USE — The specific purpose or activity, for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

VARIANCE — A modification of the use and/or area and bulk regulations of the zoning ordinance, subject to review by the Zoning Board of Appeals and to the specific requirements of Article XI.

VARIANCE, AREA — A variance from the area and bulk requirements or supplementary regulations of a related character (such as amount, size, location or design of access, off-street parking, landscaping, signs) to authorize on a specific lot a permitted use which could not feasibly be established without relief from one or more of the dimensional requirements pertaining to the district. Subject to review by the Zoning Board of Appeals and to the specific requirements of Article XI.

VARIANCE, USE — A variance from the use regulations to allow the establishment of a land use on a specific lot of a use otherwise prohibited in the zoning district. Subject to review by the Zoning Board of Appeals and to the specific requirements of Article XI.

VETERINARIAN’S OFFICE – See Animal Hospital.

VOCATIONAL SCHOOL – A specialized instructional establishment that provides on-site training to provide for the teaching of industrial, clerical, managerial, or artistic skills.

WAREHOUSE, RETAIL – An off-price or wholesale retail/warehouse establishment exceeding 30,000 square feet of gross floor area and offering a limited range of merchandise, serving both wholesale and retail customers.

WATCHMAN’S DWELLING – A residence located on the premises with a main nonresidential use and occupied only by a guard employed on the premises.

WHOLESALE ESTABLISHMENT – An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business owners, or to wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This is not considered a general commercial use.

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YARD — An open space on the same lot with a building or building group lying between the closest point of the front, rear or side wall of a building and the nearest lot line, unoccupied and fully open to the sky, except as otherwise provided by the specific provisions of this chapter.

YARD, FRONT — A yard extending across the principal street side of a lot measured between the side yard lines, the depth of which yard is the minimum horizontal distance between the street line and the main building.

YARD, REAR — A yard extending across the full width of a lot measured between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building.

YARD, SIDE — A yard between any lot line other than a street line or rear lot line and a line drawn parallel thereto and between the front and rear yards.

ZONING MAP — The map delineating the boundaries of the zoning districts which, along with the zoning text, comprises this chapter.

B. **WORD USEAGE** - Words used in the present tense include the future; the singular number includes the plural and the plural number includes the singular; the word "lot" includes the word "plot"; the word "structure" includes the word "building." The term "occupied" or "used" as applied to any given building or land shall be construed to include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased" or "intended to be used or occupied." The word "shall" is mandatory and not optional. The word "may" implies the action is optional.

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ARTICLE III, Districts and Boundaries

Section 5 - Zoning districts.

A. The City of Amsterdam is hereby divided into the following eight (8) Zoning Districts:

LDN	Low Density Neighborhood District
MDN	Medium Density Neighborhood District
MRN	Medical Residential Neighborhood District
CC	Commercial Corridor District
DC	Downtown Core District
ED	Employment District
LI	Light Industrial District
PUD	Planned Unit Development District

B. Three (3) Overlay districts are also hereby created:

GW-O	Greenway Overlay Zone
HR-O	Historic Resources Overlay Zone
GT-O	Gateway Overlay Zone

SECTION 6 - Zoning Map

The location and boundaries of said districts are established on the Zoning Map of the City of Amsterdam. Said map together with all explanatory matter thereon and all amendments thereto is hereby declared to be an appurtenant part of this chapter. Said map shall be kept up-to-date and be located in the offices of the City Clerk for the use and benefit of the public. A certified copy of said map shall also be maintained in the Office of the Building Inspector. In accordance with § 250-8.1, please refer to the Federal Emergency Management Agency's Flood Hazard Boundary and Flood Insurance Rate Map (FIRM) for delineation of the Greenway Overlay (GW-O) District.

SECTION 7 - Interpretation of Zoning District Boundaries

- A. The zoning district boundaries are intended generally to follow the center lines of streets; the center lines of railroad rights-of-way; existing lot lines; rear property lines of city blocks, the center lines of rivers, streams and other waterways; and city boundary lines. Where a zoning district boundary line does not follow such a line, its location shall be shown on the Zoning Map by a specific dimension expressing its distance in feet from a street line or other boundary line as indicated.
- B. Where a district boundary divides a single lot in a single or joint ownership of record at the time such boundary is established, the regulations for the less restricted portion of such lot may, at the owner's discretion and with the exception of flood hazard zones, extend not more than 30 feet into the more restricted portion, provided that the lot has street or highway frontage in the less restricted district.

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SECTION 7.1 - Delineation of special Flood Hazard Zones and Greenway Overlay Zone

The boundaries of the Greenway Overlay Zone are established herein as delineated on the most current edition of the appropriate Federal Emergency Management Agency's Flood Hazard Boundary Map/Flood Insurance Rate Map as issued for the City of Amsterdam. Any revisions, amendments or successors thereto, with all explanatory matter thereon, are hereby adopted and made a part of this chapter. The latest edition of said map shall be kept on file in the offices of the City Clerk and the Building Inspector for the use and benefit of the public.

SECTION 7.2 - Greenway Overlay Zone Relationship to City of Amsterdam Local Waterfront Revitalization Plan

Any regulations or restriction of the Greenway Overlay District does not void or supercede the recommendations and projects of the 1992-93 City of Amsterdam Local Waterfront Revitalization Plan.

SECTION 8 - Application of zoning district regulations

Except as hereinafter otherwise provided:

- A. No building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land, building or structure be designed, used or intended to be used for any purpose or in any manner except in conformance with the regulations specified herein for the district in which it is located.
- B. No yard or existing lot at the time of passage of this chapter shall be reduced in size or be below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter. Other special lot requirements are found in Article V.
- C. No part of any yard or other open space required in connection with any building or use shall be considered as providing part of a yard or other open space similarly required for another building.
- D. No off-street parking or loading space required for one building or use shall be considered as meeting, in whole or in part, the off-street parking or loading space required for another building or use, except as otherwise provided by this chapter.
- E. There shall be not more than one principal building and one principal use, nor more than two accessory structures, of which no more than one shall be a private garage, on each lot intended or used for residential purposes, except as provided within Article IX of this chapter.

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F. Within each district, the regulations set forth by this chapter shall be considered minimum regulations and shall apply uniformly to each kind of building, structure or land.

SECTION 9 - Classification of annexed lands

Any land hereafter annexed to or consolidated with the City of Amsterdam shall be deemed to be zoned Low Density Neighborhood (LDN) District until such land is reclassified by specific amendment to this chapter. Said provision shall not be construed to preclude concurrent consideration of the annexation of land and its classification to a zoning district other than Low Density Neighborhood (LDN) District by the Common Council, provided that the amendment procedure set forth in Article XIII of this chapter is followed, including compliance with all applicable requirements of the General City Law, the General Municipal Law and the Environmental Conservation Law, specifically SEQRA, Article 8 of the Environmental Conservation Law and related Title 6 Part 617NYCRR.

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ARTICLE IV, Zoning District Use Regulations

SECTION 10 - Zoning District General Use Regulations

The general use regulations in zoning districts are set forth in the following section of use regulations:

- A. Any use not listed specifically or through a similar use, as such may be interpreted by the Zoning Board of Appeals, as a permitted, special permit or accessory use shall be considered a prohibited use under this chapter.
- B. No building or premises shall be used and no building shall be erected or altered except as permitted as a principle use, accessory use or special permitted use as approved by the City Planning Commission. All uses within the Planned Unit Development (PUD) District shall be established on a project-specific basis in accordance with the standards and procedure set forth in Article VI and VII of this chapter.
- C. No uses, except for open space purposes, shall be authorized within the floodplains for properties located in the Greenway Overlay (GW-O) District.

SECTION 11 - Low Density Neighborhood (LDN) District

- A. **Purpose and Intent**—The Low Density Neighborhood District is intended to provide single-family detached residences and supporting uses. A Low Density Neighborhood should maintain a high degree residential quality and strike a balance of owner-occupied and rental single-family detached dwellings. The LDN District encourages a sense of community and a pedestrian-friendly atmosphere.
- B. **Allowable Uses**—In the Low Density Neighborhood no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:
 - 1. **Principal Permitted Uses** (Other uses substantially similar to those listed herein shall also be deemed permitted):
 - a. Single-Family Dwelling
 - b. Community Park or Playground
 - c. Community Gardening
 - 2. **Accessory Uses** (Other uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.):
 - a. Detached Garage
 - b. Shed or other non-habitable structure requiring a building permit
 - c. Home Office
 - d. Swimming Pool
 - e. Tennis Court

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- f. Sauna and Bathhouse
 - g. Child Care for under four (4) children
3. **Special Use Permit**^{*1} shall be required for the following uses:
- a. Community Residence, or other alternative care housing
 - b. Churches, Sunday School and Parish Houses
 - c. Schools
 - d. Cultural Facilities
 - e. Home Occupations
 - f. Bed and Breakfast
 - g. Senior Citizen Housing
 - h. Cemetery, Crematorium or Mausoleum
 - i. Child Care
 - j. Governmental Buildings
 - k. Public Utility
 - l. Golf Course or Country Club, including accessory clubhouses, golf driving ranges and pitch and putt
4. **Prohibited uses:**
- a. Anything not listed above
5. **Lot, Yard and Height Requirements:**
- a. Minimum Lot Size—8,500 square feet, or 6,500 square feet for lots of record
 - b. Minimum Lot Frontage (Width)—80 feet or 60 feet for lots of record
 - c. Minimum Front Yard—30 feet distance from front property line to building
 - d. Minimum Rear Yard—30 feet rear property line to nearest building or structure
 - e. Minimum Side Yard—10 feet distance from side yard to nearest building or structure
 - f. Maximum Building Coverage—30%
 - g. Maximum Height of Building—40 feet
 - h. Minimum Lot Depth—100 feet
 - i. Off-Street Parking—2 spaces per dwelling unit
6. **Special Provision**
- a. Development projects in the LDN District should be reviewed to see if the property is located within the Gateway, Greenway, or Historic Overlay Zones. Additional requirements may apply.

¹ (*Special Use Permit requires approval by the City Planning Commission)

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SECTION 12 - Medium Density Neighborhood (MDN) District

- A. **Purpose and Intent** — The Medium Density Neighborhood District is generally located in older, more urban areas of the city, have smaller lots and contain a mixture of single family and duplex dwelling units. The regulations set forth in this district are intended to promote diversity of residential types while preserving a scale of design and a variety of densities.
- B. **Allowable Uses** — In the Medium Density Neighborhood no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:
1. **Principal Permitted Uses** (Other uses substantially similar to those listed herein shall also be deemed permitted):
 - a. Principal Permitted uses in the Low Density Neighborhood
 - b. Two-Family Dwelling (only two dwelling units per lot allowed)
 2. **Accessory Uses** (Other uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.):
 - a. Permitted accessory uses in the LDN District
 3. **Special Use Permit**^{*2} shall be required for the following uses:
 - a. Boarding and Rooming House
 - b. Senior Citizen Housing (multiple units on one lot)
 - c. Community Residence or other alternative care facility
 - d. Churches, Sunday School and Parish Houses
 - e. School
 - f. Cultural Facilities
 - g. Home Occupations
 - h. Bed and Breakfast
 - i. Nursing Home
 - j. Cemetery, Crematorium or Mausoleum
 - k. Child Care
 - l. Governmental Buildings
 - m. Public Utility
 - n. Golf Course or Country Club including accessory clubhouses, golf driving ranges and pitch and put
 - o. Funeral Home
 - p. Professional Offices, Medical Offices, or Dental Offices provided that they be located on an arterial street and occupy a structure of less than two thousand (2,000) square feet of gross floor area
 - q. Commercial Uses limited to one thousand (1,000) square feet provided that they be located on an arterial street
 4. **Prohibited uses:**
 - a. Anything not listed above

² (*Special Use Permit requires approval by the City Planning Commission)

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5. **Lot, Yard and Height Requirements:**
 - a. Minimum Lot Size—5,000 square feet for single family residence, 7,500 square feet for two-family residence, 2,500 square feet additional lot area required for each dwelling unit beyond the first dwelling unit
 - b. Minimum Lot Frontage—50 feet
 - c. Minimum Front Yard—20 feet
 - d. Minimum Rear Yard—25 feet
 - e. Minimum Side Yard—8 feet
 - f. Maximum Building Coverage—35%
 - g. Maximum Height of Building—40 feet
 - h. Minimum Lot Depth—100 feet
 - i. Off-Street Parking—Single Family- 2 spaces per unit, Two-Family Dwelling Unit (Duplex) - 3 spaces; Refer to Parking Requirement Chart in Section 39: Off Street Parking and Loading Requirements.

6. **Special Provisions:**
 - a. All development in the MDN District should be reviewed to see if the property is located within the Gateway, Greenway, or Historic Overlay Zone. Additional requirements may apply.

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SECTION 13 - Medical Residential Neighborhood (MRN) District

- A. **Purpose and Intent** — The Medical Office Neighborhood is intended to balance preserving and protecting the existing residential area from any negative effects of hospital expansion, while providing for the continuation of existing medical facilities and potential redevelopment and expansion of medical facilities on existing property. These medical facilities should be developed comprehensively and designed to ensure compatibility with the surrounding neighborhood.
- B. **Allowable Uses** — In the Medical Residential Neighborhood, no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:
1. **Principal Permitted Uses** (Other uses substantially similar to those listed herein shall also be deemed permitted):
 - a. Principal Permitted uses in the Low Density Neighborhood
 - b. Two Family Dwelling
 - c. Conversion of existing residential structures to a medical use if no exterior change is made
 - d. Hospitals, Medical Offices, and Dental Offices
 - e. Nursing Home- Allowable only through either the conversion of an existing floor area within or as an addition to the existing hospital structure
 - f. Bed and Breakfast
 2. **Accessory Uses** (Other uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses):
 - a. Home Office
 - b. Detached Garage
 - c. Sheds or other non-habitable structures requiring a building permit
 - d. Swimming Pools
 - e. Tennis Courts
 - f. Saunas and Bathhouses
 3. **Special Use Permit**^{*3} shall be required for the following uses:
 - a. Churches, Sunday School and Parish Houses
 - b. School
 - c. Child Care
 - d. Conversion of existing residential structures to a medical use when exterior changes are made
 - e. Parking Structure
 - f. Parking Lots
 - g. Heliports
 - h. Alternate Care Facilities
 - i. Home Occupations
 - j. Cultural Facilities

³ (*Special Use Permit requires approval by the City Planning Commission)

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4. **Prohibited Uses:**
 - a. Anything not listed above

5. **Lot, Yard and Height Requirements:**
 - a. Minimum Lot Size- 5,000 square feet
 - b. Minimum Lot Frontage- 50 feet
 - c. Minimum Front Yard- 20 feet
 - d. Minimum Rear Yard- 25 feet
 - e. Minimum Side Yard-8 feet
 - f. Maximum Building Coverage- 40%
 - g. Maximum Height of Building- 40 feet
 - h. Minimum Lot Depth- 100 feet
 - i. Off-Street Parking- Single Family- 2 spaces per unit, Two-Family Dwelling Unit (Duplex) 3 spaces; other uses refer to Parking Requirement Chart in Section 39: Off Street Parking and Loading Requirements.

6. **Special Provision:**
 - a. Development projects in the MR District should be reviewed to see if the property is located within the Gateway, Greenway or Historic Overlay Zone. Additional requirements may apply.

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SECTION 14 - Downtown Core (DC) District

- A. **Purpose and Intent**—The Downtown Core District is intended to accommodate a wide variety of uses in the central business district of the City while optimizing development opportunities for mixed-uses, residential dwellings, pedestrian-oriented activity, entertainment and urban activity. The Downtown Core District will allow numerous types of uses, including business, retail, residential, cultural, civic, hospitality, educational and other public and private uses. Increased densities and scale are encouraged in this district while creating a walkable, attractive downtown for residents and visitors.
- B. **Allowable Uses** — In the Downtown Core, no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:
1. **Principal Permitted Uses** (Other uses substantially similar to those listed herein shall also be deemed permitted):
 - a. Civic Centers, Conference Centers, or Banquet Halls
 - b. Professional Offices
 - c. Banks and Financial Institutions
 - d. Governmental Building
 - e. Medical Clinics
 - f. Personal Service Establishment
 - g. 2nd Story Residential
 - h. Single-Family Dwelling
 - i. Two-Family Dwelling
 - j. Restaurants and Taverns
 - k. Retail Sales Establishment
 - l. Shopping Center
 - m. Garden Center
 - n. School
 - o. Artist's Studio
 - p. Motels and Hotels
 - q. Theaters and Auditoriums
 - r. Indoor Commercial Amusement
 - s. Community Park or Playground
 - t. Community Gardening
 - u. Copy Shops, Mail Services, and Print Shops
 - v. Health Club
 - w. Child Care
 - x. Laundry Facility
 - y. Microbrewery
 - z. Any mixture of permitted Downtown Core uses in a single structure or property
 2. **Accessory Uses** (Other uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses):

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- a. Sidewalk Cafes
 - b. Parking lots when accessory to principle permitted uses
3. **Special Use Permit**^{*4} shall be required for the following uses:
- a. Churches, Sunday School, and Parish Houses
 - b. Funeral Home
 - c. Convenience Store
 - d. Automobile Service Station (Minor)
 - e. Automobile Rental/Leasing Establishment
 - f. Transportation Facility
 - g. Parking Structure
 - h. Multiple Family Dwelling
4. **Prohibited Uses:**
- a. Anything not listed above
5. **Lot, Yard and Height Requirements:**
- a. Minimum Lot Size- 5,000 square feet
 - b. Minimum Lot Frontage- 50 feet
 - c. Minimum Front Yard- 0 feet minimum, 20 feet maximum set
 - d. Minimum Rear Yard- 20 feet
 - e. Minimum Side Yard- 5 feet
 - f. Maximum Building Coverage- 60%
 - g. Maximum Height of Building- 150 feet
 - h. Minimum Lot Depth- 100 feet
 - i. Off-Street Parking — Downtown parking requirements shall be 50% of required use parking requirement found in Section 39: Off Street Parking and Loading Requirements. In calculating reduced parking requirements, any partial number shall be rounded up to the next whole number. Mixed use parking rates shall be calculated by the percentage of space devoted to each use.
6. **Special Provision:**
- a. Development projects in the DC District should be reviewed to see if the property is located within the Gateway, Greenway, or Historic Overlay Zone. Additional requirements may apply.

⁴ (*Special Use Permit requires approval by the City Planning Commission)

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SECTION 15 - Employment District (ED) District

- a. **Purpose and Intent** — The Employment District is intended to establish a mixture of residential and public uses, with uses that generate employment such as commercial and research development uses. The primary objective of the Employment District is to expand employment opportunities by allowing businesses to locate in a variety of locations, provide services for employees in close proximity to their work place, provide options for living, working, and shopping environments; facilitate more intensive use of land while minimizing potentially adverse impacts to surrounding residents.
- b. **Allowable Uses** — In the Employment District, no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:
 1. **Principal Permitted Uses** (Other uses substantially similar to those listed herein shall also be deemed permitted):
 - a. Principal permitted uses in the DC District
 2. **Accessory Uses** (Other uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses):
 - a. Watchman's Dwelling
 - b. Parking Lots when accessory to principle permitted uses
 - c. The accessory uses allowed in the LDN District
 3. **Special Use Permit**⁵ shall be required for the following uses:
 - a. Special Uses Permitted in the DC District.
 - b. Research and Development Facility
 - c. Commercial Storage and Retail Warehouse when conducted in completely enclosed building
 - d. Light Manufacturing
 - e. Multiple Family Dwellings
 4. **Prohibited Uses:**
 - a. Anything not listed above
 5. **Lot Yard and Height Requirements:**
 - a. Minimum Lot Size - 10,000 square feet non-residential use; 5,000 square feet residential use, 7,500 square feet for two-family residence
 - b. Minimum Lot Frontage- 80 feet non-residential use, 50 feet residential use
 - c. Minimum Front Yard- 30 feet non-residential use, 20 feet residential use
 - d. Minimum Rear Yard- 30 feet non-residential use, 25 feet residential use
 - e. Minimum Side Yard- 10 feet non-residential use, 8 feet residential use
 - f. Maximum Building Coverage - 40% non-residential use, 35% residential use
 - g. Maximum Height of Building - 40 feet non-residential use and residential use

⁵ (*Special Use Permit requires approval by the City Planning Commission)

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- h. Minimum Lot Depth - 100 feet non-residential use and residential use
 - i. Off-Street Parking- Off-Street Parking- Single Family- 2 spaces per unit, Two-Family Dwelling Unit (Duplex)- 3 spaces; other uses refer to Parking Requirement Chart in Section 39: Off Street Parking and Loading Requirements.
6. **Special Provision:**
- a. Development projects in the ED District should be reviewed to see if the property is located within the Gateway, Greenway, or Historic Overlay Zone. Additional requirements may apply.

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SECTION 16 - Commercial Corridor (CC) District

A. **Purpose and Intent** — The Commercial Corridor District is intended to provide suitable locations for commercial uses, retail, personal services, automobile sales and service establishments, and entertainment businesses that relate to the city's major vehicular corridors. The uses provided in this District are meant to serve local and regional residents, as well as those motorists passing through the city.

B. **Allowable Uses** — In the Commercial Corridor District, no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

1. **Principal Permitted Uses** (Other uses substantially similar to those listed herein shall also be deemed permitted):

- a. Professional Offices
- b. Banks and Financial Institutions
- c. Medical Clinics
- d. Personal Service Establishment
- e. 2nd Story Residential units
- f. Restaurants and Taverns
- g. Retail Sales Establishment
- h. Shopping Center
- i. Garden Center
- j. Schools
- k. Automobile Service Station (Minor)
- l. Automobile Sales
- m. Boat Sales/Rental
- n. Convenience Store
- o. Car Wash
- p. Motels and Hotels
- q. Theaters and Auditoriums
- r. Indoor Commercial Amusement
- s. Copy Shops, Mail Services, and Print Shops
- t. Health Club
- u. Child Care
- v. Churches, Sunday School, and Parish Houses
- w. Home Improvement Store
- x. Funeral Home

2. **Accessory Uses** (Other uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses):

- a. Detached Garage
- b. Shed
- c. Automobile Body Shop
- d. Boat Repair Facility
- e. Parking lot when accessory to a principle use

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- f. Accessory buildings and uses customarily incidental to the above use when located on the same lot
- 3. **Special Use Permit**⁶ shall be required for the following uses:
 - a. Athletic Facility
 - b. Amphitheatre
 - c. Recreation Commercial
 - d. Live Entertainment
 - e. Automobile Service Station (Major)
- 4. **Prohibited Uses:**
 - a. Parking Lots as a principle use
 - b. Any other use not listed above
- 5. **Lot, Yard and Height Requirements:**
 - a. Minimum Lot Size- 5,000 square feet
 - b. Minimum Lot Frontage- 50 feet
 - c. Minimum Front Yard- 10 feet
 - d. Minimum Rear Yard- 20 feet
 - e. Minimum Side Yard- 10 feet
 - f. Maximum Building Coverage- 60%
 - g. Maximum Height of Building- 70 feet
 - h. Minimum Lot Depth- 100 feet
 - i. Off-Street Parking- Refer to Parking Requirement Chart in Section 39: Off Street Parking and Loading Requirements.
- 6. **Special Provisions:**
 - a. Development projects in the CC District should be reviewed to see if the property is located within the Gateway, Greenway, or Historic Overlay Zone. Additional requirements may apply.

⁶ (*Special Use Permit requires approval by the City Planning Commission)

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SECTION 17 - Light Industrial (LI) District

- A. **Purpose and Intent** - The Light Industrial District provides land for uses associated with manufacturing, warehousing, storage and other intensive uses. The Light Industrial District also is located in areas formerly used for manufacturing and now offers opportunities for adaptive reuse or redevelopment. This District is located near rail, New York Thruway junctions and serves a secondary purpose of interstate and transportation commerce.
- B. **Allowable Uses** - In the Light Industrial District, no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:
2. **Principal Permitted Uses** (Other uses substantially similar to those listed herein shall also be deemed permitted):
 - a. Automotive Service Station (Major and Minor)
 - b. Convenience Store
 - c. Communications Facilities
 - d. Car Wash
 - b. Contractor's Storage Yard
 - c. Light Manufacturing
 - d. Commercial Storage and Retail Warehouse
 - e. Wholesale Establishment
 - f. Repair Services
 - g. Machine Shop
 - h. Equipment Rentals
 - i. Lumberyard
 - j. Veterinarian's Office or Animal Hospital
 - k. Kennel
 - l. Bus Lot
 - m. Heliport
 - n. Nursery
 - o. Vocational School
 - p. Governmental buildings
 - q. Public Utilities
 - r. Community Park or Playground
 - s. Community Gardening
 3. **Accessory Uses** (Other uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses):
 - a. Watchman's Dwelling
 - b. Sheds and Garages
 4. **Special Use Permit**^{*7} shall be required for the following uses:
 - a. Commercial Recreation and Indoor Commercial Amusement

⁷ (*Special Use Permit requires approval by the City Planning Commission)

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- b. Adult Entertainment as per Article VI, Section 51
 - c. Hotels and Motels
 - d. Recycling Facility
 - e. Mining and Mineral Extraction
5. **Prohibited Uses:**
- a. Anything not listed above
5. **Lot, Yard and Height Requirements:**
- a. Minimum Lot Size- 30,000 square feet non-residential use; 5,000 square feet residential use, 2,500 square feet additional lot area required for each dwelling unit beyond the first dwelling unit
 - b. Minimum Lot Frontage- 150 feet non-residential use, 50 residential use
 - c. Minimum Front Yard- 50 feet non-residential use, 20 feet residential use
 - d. Minimum Rear Yard- 50 feet non-residential use, 25 feet residential use
 - e. Minimum Side Yard- 30 feet non-residential use, 8 feet residential use
 - f. Maximum Building Coverage- 30% non-residential use, 35% residential use
 - g. Maximum Height of Building- 40 feet non-residential and residential use
 - h. Minimum Lot Depth- 150 feet non-residential use, 100 feet residential use
 - i. Off-Street Parking- Refer to Parking Requirement Chart in Section 39: Off Street Parking and Loading Requirements.
6. **Special Provisions:**
- a. Development projects in the LI District should be reviewed to see if the property is located within the Gateway, Greenway, or Historic Overlay Zone. Additional requirements may apply.

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SECTION 18 - Planned Unit Development District Review and Approval Procedure

- A. **Purpose and Intent** — The objective of the Planned Unit Development (PUD) review and approval procedure is to provide appropriate land use and development regulations through the use of performance criteria so that a major new development or redevelopment effort may be planned with sensitivity and flexibility to the unique characteristics of the site. Through the Planned Unit Development procedure the city seeks to promote more efficient land use; more adequate and economic provision of streets, utilities and public spaces; greater preservation of the natural and scenic qualities of open areas; and a better overall quality of site planning and design. The procedure is intended to permit diversification in the location of structures and other improvements, while ensuring adequate standards relating to public health, safety, welfare and convenience both in the use and occupancy of buildings, facilities and land.
- B. **General standards** — The legislative determination to establish a Planned Unit Development District shall be based upon the following standards:
1. **Location** - A Planned Unit Development (PUD) District may be established within any area of the city. Such PUD District may be established only if the Planning Commission and the Common Council find that the objectives and provisions of this chapter are satisfied and the proposed development is fully consistent with the spirit and intent of the City's Master Plan.
 2. **Development area**
 - a. The minimum development area required to qualify for a Planned Unit Development District shall be as follows:
 - (1) Six contiguous acres of land in the Low Density or Medium Density Neighborhood District;
 - (2) Nine contiguous acres of land in Downtown Core, Employment District, Commercial Corridor District, or Light Industrial District; or
 - (3) Fifteen contiguous acres of land for a new residential, commercial or light industrial development; or
 - (4) Exceptions may be made only if the Planning Commission, upon recommendation of a professional planning consultant hired by the city at the developer's expense, shall find that a smaller tract, not less than 2/3 of the specified minimum, is suitable as a Planned Unit Development District because of unique, historic or developmental considerations.
 3. **Ownership** - The tract of land for a Planned Unit Development project may be owned, leased or controlled either by a single person or corporation, or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners of all property included within the project. In the case of multiple owners, the approved Planned Unit Development District site plan and its amendment shall be binding upon all owners and their successors in title and interest.

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4. Permitted uses in planned development districts — All uses within an area designated as a Planned Unit Development District shall be determined by the provisions of this chapter and the approved plan for the project concerned.
 - a. Except for mobile homes, residential dwelling units may be of any variety of type and density as appropriate to accomplish the general objectives of this chapter and the specific objectives of the intended development.
 - b. Private garages, storage spaces, recreational and community facilities shall be permitted as appropriate within the Planned Unit Development District.
 - c. Commercial, service and other nonresidential accessory uses may be permitted or required where such uses are scaled to primarily serve the residents of the Planned Unit Development District as may be necessary in the surrounding neighborhood.
 - d. Based upon a market analysis, commercial, service, light industrial and other nonresidential uses may be permitted as principal uses when such uses are integral to the design of the Planned Unit Development District, when supportive of the Planned Unit Development District and the surrounding neighborhood in terms of work force, design and character and when consistent with the City Master Plan.
5. Intensity of land use- The density allowed within the Planned Unit Development District shall be determined by the approved Planned Unit Development District site plan, except that when the PUD District occurs through rezoning of a prior residential district, the density shall not exceed 120% of that otherwise permitted in the District Schedule of Area and Bulk Regulations for that prior residential district.
6. Natural and recreational usable open space- Not less than 35% of the total area of any tract developed or proposed to be developed as a Planned Unit Development District shall remain forever as common, usable open space system, including walkways, plazas, pools, fountains, lawns, trees and shrubs. Parking areas, vehicle access facilities and lands within 15 feet of proposed residential structures shall not be considered in calculating such open space.
7. Utilities- Required utilities shall be provided consistent with applicable city, county and state regulations.
8. Off-street parking- Off-street parking shall conform to the standards of the most appropriate zoning designation or designations. The minimum number of spaces may be reduced only if it can be demonstrated that a particular aspect of the intended use within the Planned Development District makes such appropriate.

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9. Transportation- Special attention shall be given to public transportation, pedestrian and vehicular linkages within the development and with the surrounding community. District access shall be provided to major streets, highways or other transportation facilities so as to prevent the generation of increased traffic along minor streets in residential neighborhoods.
- C. **Procedure-** Whenever any Planned Unit Development District is proposed, before any permit for the erection of a permanent structure within such Planned Unit Development District shall be granted and before any subdivision plat of any part thereof may be filed in the Office of the Montgomery County Clerk, the landowner and developer or other authorized representative shall apply for and receive approval of such Planned Unit Development District in accordance with the procedure detailed in this chapter.
1. Pre-filing conference- In order to allow the Planning Commission and the applicant to reach an understanding on the basic concepts and design requirements prior to detailed design and engineering investment, the applicant or his representative shall meet with the Planning Commission and its professional planning consultant to informally discuss the proposed project prior to the formal filing of an application or preparation of a sketch plan. The applicant shall be provided with a complete list of required elements for a complete sketch plan application.
 2. Sketch plan- Based upon the basic design concepts and application requirements agreed upon during the pre-filing conference, a sketch plan shall be filed with the Planning Commission at least 10 calendar days prior to its regular meeting. The sketch plan shall be developed generally in accordance with the requirements for submission of the sketch plat for a major subdivision, as detailed in § 210-20 of Chapter 210, Subdivision of Land. The applicant shall be notified of any missing requirement 3 days after submitting the application and the Planning Commission may postpone any incomplete application until all requirements are submitted and accepted.
 3. Preliminary plat/site plan- After informal agreement on the practicality of the proposed Planned Unit Development project and an overall assessment of its conformance with the City Master Plan, the applicant shall then file with the City Planning Commission an application for preliminary plat/site plan approval according to the procedures and requirements specified within the City's Land Subdivision Regulations and Article IV, of this chapter. A filing fee shall be submitted with such application, with the amount of such fee in accordance with the fee schedule established and annually reviewed by the Common Council.
 4. Planning Commission action on preliminary plat/site plan—Action upon the application for preliminary plat/site plan approval shall be taken by the Planning Commission according to procedures identified in Article III, Section 7 of the City Land Subdivision Regulations for preliminary plat approval of a major

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subdivision. After the public hearing and upon approval of the Preliminary Plat/Site Plan by the Planning Commission, the applicant shall be permitted to proceed to either below-cited Subsection 5 a or b, as determined appropriate by the Planning Commission.

5. Alternative actions on an approved preliminary plat/site plan-
 - a. If the proposed development project shown by the approved preliminary/site plan consists of uses and overall densities already permitted in the applicable zoning district, Planning Commission approval authorizes the applicant to submit a final plat/site plan without need for approval by the Common Council of a project-specific Planned Unit Development (PUD) zoning amendment. This type of coordinated development may be used for a cluster development or other design variations where building bulk, spacing and open space are adjusted with flexibility to the land, while the use and density limitations of the original zoning district are strictly observed. The Planning Commission has authority to approve this type of design adjustment under § 37 of the General City Law.
 - b. If the proposed development project proposes uses or overall densities not permitted in the applicable zoning district, the amendment procedure specified in Article XII of this chapter shall be followed at this point. In such a case, the Planning Commission shall transmit the complete application package to the Common Council for its review. If, in the opinion of the Common Council, the application is warranted, then the Common Council shall conduct a public hearing as required by General City Law and this chapter to consider a Zoning Map amendment which would re-designate the area as a Planned Unit Development (PUD) District to be governed by the specific preliminary plat/site plan approved by the Planning Commission, or as specifically modified by the Common Council as a condition of its approval. If the amendment is approved, the applicant may proceed to the final plat/site plan. A rejection by the Common Council shall terminate review of the proposal.
6. Preliminary plat/site plan binding - The approved preliminary plat/site plan, whether by alternate Subsection 5 a or b above, shall be binding on final plat/site plans and future development of the project unless amended by this same procedure. The final plat/site plan must conform fully with the use, density and basic design expressed by the approved preliminary plat/site plan. Such approved preliminary plat/site plan shall become part of this chapter, and shall be maintained in the permanent files of both the City Clerk and the Building Inspector.
7. Final plat/site plan — The final plat/site plan shall be filed with the City Planning Commission according to the procedures and requirements identified in § 210-8 of Chapter 210, Subdivision of Land, and Article VIII of this chapter.

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8. Planning Commission action on final plat/site plan — A public hearing, if held on the final plat/site plan, shall be held within 45 calendar days of its submission in final form. The Planning Commission shall either approve, conditionally approve with or without modifications or reject the final plat/site plan within 45 calendar days of submission or public hearing, whichever may be applicable. This time period may be extended only by mutual consent of the applicant and Planning Commission. In the event of required modifications, the applicant shall submit a modified final plat/site plan. In the event of rejection, the applicant shall either return to the stage of the preliminary plat/site plan or waive further rights to project review thereby terminating consideration of the proposal.
9. Building permits and filing requirements — A copy of the approved final plat/site plan shall be transmitted to the Building Inspector who shall be authorized to issue building permits and/or certificates of occupancy for approved construction and uses in strict accordance with the approved final plat/site plan. The applicant shall also file a copy of the final plat/site plan in the Office of the Montgomery County Clerk within 60 calendar days of the approval thereof, as may be required.
10. Staging and scheduling — Final plat/site plans may be submitted for Planning Commission approval in stages and do not have to be submitted to cover the entire project development at anyone time. Staged final plat/site plans shall be submitted and building permits applied for according to a general time schedule agreed upon by the Planning Commission during the preliminary plat/site plan review and approval phase and as otherwise provided by General City Law.
11. Planned Unit Development Agreement — The Common Council and PUD applicant may enter into a Development Agreement, which stipulates any cost sharing or other agreements, including but not limited to the duration that the PUD will remain if no development activity occurs.

SECTION 19 - Overlay Zone District General Use Regulations

The general use regulations in Overlay Zones are set forth in the following Section:

- A. **Definition-** Overlay Zoning Districts add a layer of specific restrictions and regulation in addition to the underlying zoning regulations. The Overlay Zoning addresses specific goals of the 2004 City of Amsterdam Comprehensive Plan.
- B. **General Rules**
 1. In the event of a conflict exists between the underlying zoning and the overlay zone, the overlay zone will take precedence.
 2. No building or premises shall be used and no building shall be erected or altered except as permitted by the overlay zone regulations.

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3. All uses within the Planned Unit Development (PUD) District shall be established on a project-specific basis and apply consideration to any Overlay District within the project area in accordance with the standards and procedure set forth in Article IV of this chapter.

SECTION 20 - Greenway Corridor Overlay (GRW-O) Zone

A. Intent and Purpose

1. One of the goals and intent for the 2004 City of Amsterdam Comprehensive Plan was to create a City Greenway System that would protect and enhance natural riparian corridors and create active and passive recreation opportunities.
2. The purpose of the Greenway Corridor Overlay Zone is to protect the public health, safety and welfare from the effects of flooding on life and property; to protect against erosion by enhancing and protecting riparian buffers, to provide habitat for plants and wildlife within the greenway corridors; and to preserve, evaluate and protect and specific areas for potential passive recreation areas, such as trails, overlooks, parks and nature sanctuaries.

C. Applicability

1. A property with any portion of the Greenway Corridor Overlay adjacent to or within its boundaries shall be subject to the requirement of this section. The Greenway Corridor Overlay Zone shall include all 100-year flood plain as depicted in the Federal Emergency Management Agency's Flood Insurance Rate Map and the official City Zoning Map.
2. All applications*⁸ brought before the City Planning Commission, City Zoning Board of Appeals or Code Enforcement Officer shall be evaluated for regulation under the Greenway Corridor Overlay Zone.

D. General Application Procedures

- a. Properties who propose and seek approval to undertake development activity*⁹ within the Greenway Corridor Overlay, and subject to review by the City Code Enforcement Department, Zoning Board of Appeals or Planning Commission shall, along with the regular application requirements:
 - (1) Provide a site plan that describes the proposed development activity.
 - (2) Document through mapping, the property's location within the Greenway Corridor Overlay Zone.
 - (3) Document the current natural state of the property using photographs and written descriptions.
- b. Criteria For Review—The deciding body¹⁰ shall evaluate the development proposal for:

⁸ (*Applications for building permits, subdivision, variances, site plan reviews, special permits, and changes in use or zoning)

⁹ (*Apply for building permits, subdivision, variances, site plan reviews, special permits, and change in use or zoning)

¹⁰ (Code Enforcement, ZBA or Planning Board)

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- (1) Its inclusion and effect on any 100 year flood plain.
 - (2) The current state of the greenway including natural vegetation, and environmentally sensitive areas such as rock outcrops, unusual geologic features or steep slopes over 15%.
 - (3) Potential as a passive or active recreation area.
 - (4) Any project recommended in the City Local Waterfront Revitalization Plan (LWRP).
 - (5) Any potential gift, donation, acquisition or inclusion of land or easements.
- c. Treatment of Greenways—After reviewing the development proposal, the Code Enforcement Officer, City Planning Commission or City Zoning Board of Appeals shall make recommendations placing conditions to:
- (1) Limit or prohibit any disturbance, construction or development in the 100 year flood plain
 - (2) Limit or prohibit and disturbance of steep slopes over 15% or environmentally sensitive lands
 - (3) Mitigate any increased surface run-off, erosion or disturbance in the Greenway by requiring vegetative plantings or other bioengineering method
 - (4) Reserve land designated for LWRP projects or Greenway Trail for a period not to exceed 2 years
 - (5) The provisions of this section do not supersede any Federal, State or Local regulations of 100-year flood plains

SECTION 21 - Historic Resources Overlay (HR-O) Zone

- A. Purpose—It is hereby declared as a matter of public policy that the identity of a people is founded on its past, and inasmuch as the City of Amsterdam has many significant historic, architectural, and cultural resources that the protection, enhancement, and perpetuation of historic resources through the use of Historic Resources Overlay Zoning is necessary to promote the economic, cultural, educational, and general welfare of the public. In as much, this act is intended to:
1. Protect and enhance the historic resources and historic resources overlay zones, which represent distinctive elements of the City of Amsterdam's historic, architectural, and cultural heritage;
 2. Foster civic pride in the accomplishments of the past;
 3. Protect and enhance the City of Amsterdam's attractiveness to visitors and the support and stimulus to the economy thereby provided; and
 4. Insure the harmonious, orderly, and efficient growth and development of the City of Amsterdam.
- B. Underlying Zoning Regulations—The requirements of the underlying zoning district shall apply within the Historic Resources Overlay Zone, including designations of permitted and special uses, setback and dimensional requirements, and all supplementary regulations, unless the provisions set forth in this section are deemed

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more stringent than the underlying requirements. In such a case, these provisions will supercede the underlying requirements.

C. Designation of Historic Resources or Historic Resources Overlay Zones

1. Designation of Historic Resources- The Planning Commission shall recommend to the Common Council to designate an individual property as a historic resource if it:
 - a. Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic, or social history of the locality, region, state, or nation; or
 - b. Is identified with historic personages; or
 - c. Embodies the distinguishing characteristics of an architectural style; or
 - d. Is the work of a designer whose work has significantly influenced an age; or
 - e. Because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.
2. Designation of Historic Resources Overlay Zones — The Planning Commission shall recommend to the Common Council to designate a group of properties as a historic resources overlay zone if it:
 - a. Contains properties which meet one or more of the criteria for designation as a historic resource; and,
 - b. By reason of possessing such qualities, it constitutes a distinct section of the City of Amsterdam.
3. The boundaries of each historic resource overlay zone designated henceforth shall be specified in detail and shall be filed, in writing, in the City of Amsterdam clerk's office for public inspection.
4. Notice of a proposed designation shall be sent by registered mail to the owner of the property proposed for designation, describing the property and announcing a public hearing by the commission to consider the designation. Where the proposed designation involves so many owners that individual notice is infeasible, notice may instead be published at least once in a newspaper of general circulation at least ten (10) days prior to the date of the public hearing. Once the Planning Commission has issued notice of a proposed designation; no building permits shall be issued by the code enforcement officer until the Common Council has made its decision.
5. The Planning Commission shall hold a public hearing prior to sending a recommendation to the Common Council for the designation of any historic resource or historic resources overlay zone. The Planning Commission, owners, and any interested parties may present testimony or documentary evidence at the hearing, which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic resource or historic resources

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overlay zone. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.

6. The Planning Commission shall forward its recommendation to the Common Council, who shall hold a public hearing prior to making a final determination on the proposed historic resource and/or the boundaries of each designated historic resources overlay zone. The Common Council, owners, and any interested parties may present testimony or documentary evidence at the hearing, which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic resource or historic resources overlay zone. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.
7. Once a historic resource or historic resources overlay zone has been adopted, the City Clerk shall forward notice of each property designated as a historic resource and the boundaries of each designated historic resources overlay zone to the offices of the Montgomery County clerk for recordation.

D. Applicability- Prior to any improvements being made on any public or private property or public place within the Historic Resources Overlay (HR-O) Zone, the projects must be first reviewed by the code enforcement officer to determine whether a Certificate of Appropriateness (CA) or Building Permit is required. Routine maintenance in the Historic Resources Overlay (HR-O) Zone does not require a Certificate of Appropriateness (CA) and is not considered an improvement.

1. Routine Maintenance and Repair Exemption- The following actions by property owners are encouraged and shall be considered routine maintenance and are thus exempt from review by building code enforcement officer or the Planning Commission:
 - a. Paint colors, surface preparation or paint composition;
 - b. Patching or sealing of roofs;
 - c. Hardware;
 - d. Replacing broken glass in or replacing of period-style windows;
 - e. Replacing individual clapboards or floor boards, individual slates or shingles with material of like design;
 - f. Decorating- holiday or other;
 - g. Normal landscaping, including shrubs, trees, flowers, window flower boxes, and other plantings, as long as historic landscape features as defined in this section are not altered or removed, also flags and flag poles, lawn furniture, park benches and birdbaths;
 - h. Repair of any existing walkway, driveway, wall, fence, or terrace if in the same location and with the same materials;
 - i. Installation of window air conditioning units;
 - j. Temporary structures or signs used for special events and whose duration will not exceed any guidelines established by the commission;

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- k. The reconstruction, in the same design, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year and is continued to completion without substantial interruption;
 - l. Storm windows and doors;
 - m. All routine maintenance and repair of any of the existing features of a structure or building that does not involve a change in design, materials or the outward appearance.
2. Actions Requiring Certificate of Appropriateness (CA)
- a. Before any improvements are made on any public or private property or public place within the Historic Resources Overlay (HR-O) Zone, the project must be first reviewed by the building code enforcement officer to determine whether a Certificate of Appropriateness (CA) or Building Permit is required.
 - b. Within the Historic Resources Overlay (HR-O) Zone, the following proposed actions shall be submitted to the Planning Commission for review and approval in its consideration of a Certificate of Appropriateness (CA):
 - (1) Demolition
 - (2) New buildings, structures and additions
 - (3) The renovation, rehabilitation or reconstruction of existing buildings, structures or signs
 - (4) Windows
 - (5) Doors
 - (6) Siding
 - (7) Change in roof structure or pitch
 - (8) Porch
 - (9) Columns
 - (10) Outside walls or retaining walls (over 24")
 - (11) Fencing
 - (12) Solar Panels
 - (13) Communication Facility
 - (14) Parking lot or Parking Structure
 - (15) Playground or Community Park
 - (16) Signs of any kind
- E. In reviewing the plans, the Planning Commission shall give consideration to:
- 1. The historical or architectural value and significance of the structure and its relationship to the historic value of the surrounding area.
 - 2. The general compatibility of exterior design, arrangement, texture and materials proposed to be used.
 - 3. Any other factor, including aesthetic, which it deems pertinent.

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- F. The Planning Commission shall act only on exterior features of a structure and shall not consider interior arrangements, nor shall it disapprove applications except in regard to considerations as set forth in the previous subsection or as otherwise provided by this chapter. The Planning Commission may establish, subject to regulations it may promulgate, an advisory committee to assist in the determination of the appropriateness of development proposed within the Historic Resources Overlay (HR-O) Zone.
- G. Approval Procedures for Certificate of Appropriateness (CA) within Historic Resources Overlay (HR-O) Zone:
1. Application Submission — Before a property owner may begin any development activity requiring a Certificate of Appropriateness (CA) the owner must first submit an application for such a certificate to the building code enforcement officer for review and determination of a complete application.
 2. Required Materials for Application — The building code enforcement officer shall require the applicant to submit information which is reasonable and necessary to evaluate the proposed construction, alteration, repair, removal or demolition including, but not limited to site plans, elevation drawings, photographs or other information deemed appropriate by the building code enforcement officer. Incomplete applications shall be returned to the applicant within five (5) working days of receipt by the building code enforcement officer with an explanation and listing of missing requirements.
 3. Application Requirements - Prior to the commencement of any work requiring a Certificate of Appropriateness (CA), the owner shall file an application for such a certificate with the building code enforcement officer. The application shall contain:
 - a. Name, address, and telephone number of applicant;
 - b. Location and photographs of property;
 - c. Photographs of the five (5) adjacent properties, in each direction on both sides of the street;
 - d. Construction or site plan showing areas requiring the Certificate of Appropriateness (CA);
 - e. Elevation drawings of proposed changes;
 - f. Perspective drawings, including relationship to adjacent properties, if available;
 - g. Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property; and
 - h. Any other information, which the code enforcement officer may deem necessary in order to visualize the proposed work.
 - i. Notice letters shall be sent to surrounding property owners within 200'.
- H. When the Planning Commission issues a Certificate of Appropriateness (CA), the code enforcement officer shall issue a building permit, and work can proceed as

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described in the certificate. If the board denies the applicant's Certificate of Appropriateness (CA), or approves, but attaches conditions on their approval that the applicant finds unacceptable, the applicant may commence the hardship process.

- I. Criteria for Approval of a Certificate of Appropriateness — The Planning Commission's decision shall be based on the following principles:
 1. Properties which contribute to the character of the historic resources overlay zone shall be retained, with their historic features altered as little as possible;
 2. Any alteration of existing properties shall be compatible with its historic character, as well as with the surrounding district; and
 3. New construction shall be compatible with the surrounding properties in the historic resources overlay zone in which it is located.
 4. In applying the principle of compatibility, the Planning Commission shall consider the following factors and use the supplemental Design Guidelines:
 - a. The general design, character, and appropriateness to the property of the proposed alteration or new construction;
 - b. The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
 - c. Texture, materials, and color and their relation to similar features of other properties in the neighborhood;
 - d. Visual compatibility with surrounding properties, including proportion of the property's front façade, proportion and arrangement of windows and other openings within the façade, roof shape, and the rhythm of spacing of properties on streets, including setback; and
 - e. The importance of historic, architectural, or other features to the significance of the property.
- J. Issuance of Certificate of Appropriateness (CA) and Building Permit- No building permit shall be issued for such proposed work until the Planning Commission has first issued a Certificate of Appropriateness (CA). The certificate required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the City of Amsterdam.
- K. Timeframe for Decision - The Planning Commission shall approve, deny, or approve the Certificate of Appropriateness (CA) with modifications within sixty (60) days from receipt of the completed application. The Planning Commission may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.
- L. Notice of Decision - All decisions of the Planning Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City of Amsterdam clerk's office for public inspection. The Planning Commission's decision shall state the reasons for denying or modifying any application.

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M. Certificates of Appropriateness (CA) shall be valid for eighteen (18) months, after which time the owner must reapply if they still wish to undertake work on the property.

N. Hardship

1. Demolition Hardship Criteria — An applicant whose Certificate of Appropriateness (CA) for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall meet all three criteria to establish that:
 - a. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - b. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - c. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
2. Alteration Hardship Criteria — An applicant whose Certificate of Appropriateness (CA) for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
 - a. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.
3. Hardship Application Procedure
 - a. After receiving written notification from the Planning Commission of the denial of a Certificate of Appropriateness (CA), an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Planning Commission makes a finding that a hardship exists.
 - b. The Planning Commission may hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.
 - c. The applicant shall consult in good faith with the Planning Commission, local preservation groups, and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
 - d. All decisions of the Planning Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City of Amsterdam clerk's office for public inspection. The Planning Commission's decision shall state the reasons for granting or denying the hardship application. If the application is granted, the Planning Commission shall approve only such work as is necessary to alleviate the hardship.

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- O. Enforcement - All work performed pursuant to a Certificate of Appropriateness (CA) issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the building code enforcement officer to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the Certificate of Appropriateness (CA), or upon notification of such fact by the Planning Commission, the building code enforcement officer shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.
- P. Maintenance and Repair Required
1. Nothing in this ordinance shall be construed to prevent the routine maintenance and repair of any exterior architectural feature of a historic resource or property within a historic resource overlay zone, which does not involve a change in design, material, color, or outward appearance.
 2. No owner or person with an interest in real property designated as a historic resource or included within a historic resources overlay zone shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Planning Commission, produce a detrimental effect upon the character of the historic resources overlay zone as a whole or the life and character of the property itself. Examples of such deterioration include:
 - a. Deterioration of exterior walls or other vertical supports;
 - b. Deterioration of roofs or other horizontal members;
 - c. Deterioration of exterior chimneys;
 - d. Deterioration or crumbling of exterior stucco or mortar;
 - e. Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors; and
 - g. Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition is necessary for the public safety.
 - h. A lack of normal property maintenance as per
- Q. Violations
1. Failure to comply with any of the provisions of this ordinance shall be deemed a violation and the violator shall be liable to a fine of not less than [REDACTED] nor more than [REDACTED] for each day the violation continues.
 2. Any person, who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this ordinance shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the City of Amsterdam attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.
- R. Appeals
- Any person aggrieved by a decision of the building code enforcement officer or the Planning Commission relating to hardship or a Certificate of Appropriateness (CA) may, within thirty (30) days of the decision, file a written application with the City of

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Amsterdam Zoning Board of Appeals for review of the decision. Reviews shall be conducted based on the same record that was before the building code enforcement officer or the Planning Commission and using the same criteria.

SECTION 22 - Gateway Overlay (GT-O) Zone

A. Intent and Purpose

1. Intent- One of the goals for the 2004 City of Amsterdam Comprehensive was to enhance important transportation corridors or Gateways into the City by improving their function and appearance.
2. Improve Visual Character- The intent of the Gateway Corridor Zone is to gradually improve the appearance of the major entrance roadways in the City by requiring special consideration for design and aesthetic improvements during site plan review as properties are developed, improved or redeveloped.
3. Increase the transportation efficiency of the gateway corridors by improving all pedestrian, bike and vehicular facilities.

B. Definitions

GATEWAY OVERLAY ZONE—A specific area with added regulations intended to enhance the visual quality and transportation efficiency of the public and travelers on major thoroughfares in and out of the City of Amsterdam and shall apply to all properties adjacent to Routes 5, 5S, 30 and 126.

BUFFER- Any physical barrier such as fencing, earthen berm or vegetation that reduces visibility.

LANDSCAPE BUFFER- A vegetative screening whose purpose is to reduce the visual appearance of parking areas, storage yards and other site elements deemed unattractive to the general public and visible from a public right of way.

VEHICULAR USE AREA- Any part of a lot intended for vehicular use including entrances, driveways, parking and loading areas.

COMMERCIAL PROPERTY- A property whose primary land use is for making a profit.

RESIDENTIAL PROPERTY- Any property used for housing purposes and that is zoned LDN, MDN, MRN or whose use is primarily residential in nature.

- ### C. Applicability and General Procedures-
- Property adjacent to a designated Gateway Corridor Zone and subject to development or other improvements including applications for subdivision, building or demolition permits, building additions, change in use, special use or site plan reviews or variance will be required to do the following:

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1. At the time of the application for development approval, the applicant shall provide documentation of the property's location along the Gateway Corridor.
2. The proposed development activity will be subject to site plan review by the Planning Commission, Zoning Board of Appeals or by the Code Enforcement Officer who will have the authority to require screening, landscaping, signage restrictions and fencing for the following:
 - a. Parking lots and vehicular areas along the street frontage.
 - b. Any non-residential district abuts a residential property along the affected boundary.
 - c. Outside storage areas of vehicles, building materials or similar items to areas visible from the Gateway Corridor right of way that are visible from the street.
 - d. Permit requests for signs and fences
3. Property Maintenance- At any time, Code Enforcement Officer shall have the authority as per City Code, Property Maintenance Section [REDACTED] to require applicants to improve the property's appearance through other reasonable means than those listed in item 2. Property Maintenance- At any time, Code Enforcement Officer shall have the authority as per City Code, Property Maintenance Section [REDACTED] to require applicants to improve the property's appearance through other reasonable means than those listed in item 2. Property Maintenance- At any time, Code Enforcement Officer shall have the authority as per City Code, Property Maintenance Section [REDACTED] to require applicants to improve the property's appearance through other reasonable means than those listed in item 2.

D. Project Review Procedures

1. Applicability- Any application for a subdivision, building permit, variance, special use permit or site plan review within the Gateway Corridor Overlay (GT-O) Zone, must first be reviewed by the Code Enforcement Officer to determine the status of the application and whether additional review or action shall be required by the Planning Commission.
2. Procedures- All properties applying for development approval within the Gateway Overlay Zone must go through the site plan review process.
3. Special consideration should be given by either the Planning Commission, Zoning Board of Appeals or the Code Enforcement Officer to the following:
 - a. Screening and buffering- To require reasonable measures such as fencing, landscaping or berms to mitigate parking lots and vehicular areas adjacent to public rights of way or that are visible from public rights of way and to require necessary space or buffers for landscaping or fencing.
 - b. Transportation Facilities- The Planning Commission, Zoning Board of Appeals or the Code Enforcement Officer may require the provision of pedestrian, bike or public transportation facilities as would be

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reasonable for the impact of the particular development on the community in general.

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ARTICLE V, Lot, Area and Height Regulations

SECTION 23 - Existing Substandard Lots of Record

Nothing contained herein shall prohibit the use of an existing lot of record that contains less than the prescribed lot area or lot width for the district in which said lot is located, if such existing lot of record was owned individually and separate from any adjoining lot or tract at the time of adoption of the city's predecessor Zoning Ordinance on **September 9, 1964**, or any amendment thereto which may have affected the zoning status of said lot area or width, including this chapter, provided that:

- A. Such lot does not adjoin any other lot, lots or land held by the same owner whose aggregate area would either be less noncomplying or is equal to or greater-than the minimum lot area required for that district.
- B. Such lot may not be developed or used for more than one dwelling unit and its associated accessory structures.
- C. Such use shall satisfy all applicable requirements of the City of Amsterdam and the New York State Health Department for potable water supply and sewage disposal facilities.
- D. Such lot has direct access to an improved street and not less than 25 feet of frontage on that street.
- E. All other area and bulk regulations for that district are met.
- F. If created after September 21, 1948, the lot is part of a plat approved by the City of Amsterdam Planning Commission in accordance with the city's land subdivision regulations and filed in the office of the Montgomery County Clerk in a timely manner pursuant to General City Law.

SECTION 24 - Minimum lot area per dwelling unit

- A. In all districts where residences are permitted, a lot held in single ownership may only be improved for residential use in accordance with the minimum lot area and related bulk regulations for the district as set forth in the District Schedule of Area and Bulk Regulations, except as provided in Section 23 above regarding existing lots of record or as provided in Article IX of this chapter regarding residential cluster development in accordance with the City of Amsterdam's Land Subdivision Regulations and § 37 of the General City Law.
- B. Further, a residential lot of required or greater than required area as set forth in this chapter shall not be reduced in area for transfer of ownership if such lot so divided will form two or more lots any of which shall be less than the minimum lot area required for the district in which the lot or lots are situated.

SECTION 25 - Height exceptions

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No building or structure shall have a greater number of stories, nor have an aggregate height of a greater number of feet than is permitted in the district in which such building or structure is located, except as specifically provided in this chapter.

- A. The height limitations set forth in the District Schedule of Area and Bulk Regulations shall not be applicable to the following:
1. Flagpoles, radio or television antennae, transmission towers or cables, windmills, agricultural barns and silos and similar features, any of which shall be restricted to a maximum height of 80 feet above average finished grade at its base.
 2. Spires, belfries, chimneys, skylights, water or cooling towers, parapets or railings, elevators, stair bulkheads, solar collectors, air-conditioning units or similar structures which in their aggregate coverage occupy no more than 10% of the roof area of the building of which they are a part. Such features shall be erected only to such minimum height as is necessary to accomplish the purpose for which they are intended.
 3. A hospital structure in the Medical Residential Neighborhood (MRN) District which may be erected to a height not exceeding five stories or 73 feet, whichever is the more restrictive.
- B. No structure or other exception set forth in Subsection A (1) and (2) above shall be used as a place for habitation or for advertising not otherwise authorized by this chapter.

SECTION 26 - Yard exceptions

A. **Front yard exceptions.** When a vacant legally existing lot of record is situated between two improved lots, each having a principal building within 25 feet of any side lot line of such unimproved lot, the front yard may be reduced to a depth equal to the greater of the depths of the front yards of the two adjoining improved lots, but shall not be less than 10 feet. However, where such lot may front on a right-of-way proposed to be widened according to the Official Map of the city or a heretofore approved subdivision plat, the front yard shall be as required for the zoning district in which the lot is located and shall be measured from the proposed future right-of-way.

B. Side yard exceptions

1. **Side yard width may be varied.** Where the sidewall of a building is not parallel with the side lot line or is broken or otherwise irregular, the minimum side yard may be varied. In such case the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such side yard shall not be narrower at anyone point than 1/2 the otherwise required minimum width.
2. **Width of one side yard may be reduced.** Where specifically authorized by the Zoning Board of Appeals, the width of one side yard may be reduced to a width of not less than five feet, provided that the sum of the width of the two side yards

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is not less than the required minimum that would have otherwise been required for both side yards; and further provided that the distance between the proposed structure and any structure, existing or proposed, on an adjacent lot is not less than the required minimum sum of the widths of the two side yards. Such reduction may be authorized only when the Zoning Board of Appeals finds it to be warranted by the location of existing buildings or conducive to the desirable development of two or more lots.

3. **Side yard of corner lot.** The side yard of any corner existing lot of record at the time of the adoption of this chapter shall have a width equal to 10 feet or not less than 1/2 the required minimum front yard setback of any adjoining lot fronting on the side street, whichever shall be greater. Any corner lot delineated by subdivision after the adoption of this chapter shall have a side yard equal in width to the minimum front yard setback of any adjoining lot fronting on the side street.

SECTION 27 - Corner lots

- A. **Required front yards.** On a corner lot, each street frontage shall be deemed to be a front street line and the required yard along each such lot line shall be a required front yard. The Building Inspector, in consultation with the owner, shall establish which of the remaining yards shall be the required side yard and the required rear yard for purposes of this chapter.
- B. **Obstructions at street intersections.** At all street intersections, no obstructions to vision, such as a fence, wall, hedge, structure or planting over three feet in height as measured above the curb level, if any, or above the existing street or roadway grade, shall be erected or installed and maintained on any lot within the triangle formed by the intersecting street lines or their projections where corners are rounded and a straight line joining said street lines at points which are 30 feet distant from their point of intersection measured along said street lines and/or projections.

SECTION 28 - Architectural features in required yards

The following architectural features of a building may extend into a required yard subject to limitations provided herein:

- A. Ordinary projections of windowsills, belt courses, cornices, eaves and other architectural features; provided, however, that such features shall not project more than three feet into any required yard.
- B. Chimneys or pilasters.
- C. Open arbor or trellis.
- D. Unroofed steps, patio or terrace not less than 15 feet from the highway right-of-way nor less than five feet from any side or rear lot line, provided that the building

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complies with the yard requirements of this chapter, except that in the Downtown Core (DC) and Employment District (ED) such feature may encroach wholly to the lot line if determined by the Planning Commission under site plan review to represent no detriment to the public health, safety or welfare.

- E. Awning or movable canopy not to exceed 10 feet in height, nor projecting more than six feet into any required yard.
- F. Retaining wall, fence or masonry wall, except as limited by Section 27B or Section 40 of this chapter.
- G. Open fire escapes on the side of rear of a building and extending not more than eight feet from the principal building or closer than five feet to any lot line.

SECTION 29 - Accessory structures

- A. There shall be not more than two accessory structures, other than a permitted sign, of which no more than one shall be a private garage, on any lot intended or used for residential purposes.
- B. Accessory structures in residential districts not attached to the principal structure may be erected in accordance with the following requirements:
 - 1. No accessory structure shall exceed 15 feet in height.
 - 2. No accessory structure greater than 6 feet in height shall occupy more than 20% of any required rear yard.
 - 3. No accessory structure shall, however, be located within 5 feet of any side and/or rear lot lines.
 - 4. No accessory structure shall be located closer to the street than the front yard setback required for a principal structure in the district in which such accessory structure may be located.
 - 5. For corner lots, the setback from the side street shall be the same for accessory buildings as for principal buildings.
- C. Accessory structures in residential districts attached to the principal structure shall comply in all respects with the yard requirements applicable to the principal structure.
- D. Accessory structures in nonresidential districts shall comply fully with the front and side yard requirements for the principal structure to which they are accessory and shall not be closer to any rear property line than 10 feet.
- E. Fences and walls may be located in required yard areas where in full compliance with the standards provided within Section 41 of this chapter.

SECTION 30 - Distance between principal buildings on same lot

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Where more than one principal building may be permitted on a lot, no detached principal building shall be located closer to any other principal building on the same lot than the height of the taller of said buildings.

SECTION 31 - Maximum lot coverage

Aggregate land coverage by principal and accessory buildings or structures on any lot shall not be greater than is permitted in the zoning district where such principal and accessory buildings are located.

SECTION 32 - Minimum lot frontage

In any residential district, every lot shall have a frontage at the street property line not less than 75% of the required minimum lot width for the district as specified in Article IV.

SECTION 33 - Transition requirements between districts

- A. Where a residential district abuts a nonresidential district on a street line, there shall be provided in the nonresidential district for a distance of 50 feet from the district boundary line a front yard at least equal in depth to that required in the residential district.
- B. Where the side or rear yard in a residential district abuts a side or rear yard in a nonresidential district, there shall be provided along such abutting line or lines a side yard at least equal in width or rear yard at least equal in depth to that required in the residential district. In no case, however, shall the abutting side yard be less than 10 feet nor the abutting rear yard less than 20 feet.

SECTION 34 - Land Containing Wetlands, Land Underwater or Subject to Periodic Flooding

No more than 25% of the required minimum lot area for any lot in any district may be fulfilled by land, which is included within a designated wetland, as delineated by the New York State Department of Environmental Conservation, which lies underwater or which is subject to periodic flooding. All minimum front, side and rear yard requirements must be satisfied by measurement wholly on dry land, except that, for purposes of this section land which is covered by a stream less than five feet in average width at mean water level shall not be considered as being underwater.

SECTION 35 - Minimum floor area of residential dwelling units

No dwelling shall be erected within any residential district, which has habitable main floor space of less than 900 square feet, with a minimum narrow dimension depth of not less than 24 feet.

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ARTICLE VI, Supplementary Regulations

SECTION 36 - Applicability

The following supplementary regulations are applicable to all zoning districts within the City of Amsterdam unless otherwise provided herein.

SECTION 37 - General performance standards.

No use shall be permitted that does not conform to the following standards of use occupancy and operation in addition to all relevant provisions of other local state and federal laws rules or regulations.

- A. Noise- No noise shall exceed the intensity, as measured from the boundaries of the lot where such use is situated, of the average intensity, occurrence and duration of the noise of street traffic at adjoining streets.
- B. Atmospheric effluence- No dust, dirt, smoke, odor or noxious gases that would not normally be associated with residential or agricultural premises shall be disseminated beyond the boundaries of the lot where such use is located.
- C. Glare and heat- No unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated. Special efforts shall be required, such as the planting of vegetation and the installation of light shields, to alleviate the impact of objectionable or offensive light and glare produced by exterior sources on neighboring residential properties or public thoroughfares.
- D. Industrial wastes- No solid or liquid wastes shall be discharged into any public sewer, common or private sewage disposal system, stream or on or into the ground, except in strict conformance with the standards approved by the New York State Department of Health or other duly empowered agency.
- E. Radioactivity or electromagnetic disturbance- No activities shall be permitted which emit dangerous radioactivity beyond the building in which such activity is located or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
- F. Fire and explosion hazards- All activities involving and all storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire suppression equipment and devices standard in the industry. All applicable requirements of the New York State Uniform Fire Prevention and Building Code, as well as the provisions of the National Fire Protective Association (NFPA) Code, shall be fully observed.

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G. Maintenance of developed lots- All open portions of any developed lot shall have adequate grading and drainage and shall be continuously maintained in a dust-free and erosion-resistant condition by suitable landscaping with trees, shrubs, grasses or other planted ground cover or by paving with asphalt, concrete, washed stone or other suitable material as may be approved by the Planning Commission. Required yard areas shall be planned and maintained in such a manner as to provide an inoffensive setting which is consistent with the general use of the area.

SECTION 37.1 - Vacant Lot Development Design Guidelines

A. Purpose: To preserve and encourage the City's physical, historic integrity and urban character and compatibility as building rehabilitation and redevelopment occurs on vacant development lots, the following citywide design guidelines are hereby established.

B. Who Enforces Design Guidelines-

1. Code Enforcement - All applications on vacant development lots for building permits, variance requests, site plan reviews, special use permits and zone change requests including PUD's shall use the design guidelines where appropriate.
2. Planning Commission- The City Planning Commission shall use these design guidelines on vacant development lots for site plan reviews, special use permits and subdivision applicants where appropriate.
3. Zoning Board of Appeals- The City Zoning Board of Appeals shall use these design guidelines for any application on vacant development lots that contains design features applicable in this section.

C. Applicability: The design guidelines shall be applied to the following actions and design elements on vacant lots where development is being considered. The design guidelines shall not apply to any development in Historic Resource Overlay Zones.

1. New Construction for all commercial, multi-family developments, duplex and single family residences and structures.
2. Streetscapes
3. Outside Elements Visible from Street
4. Parking Lots
5. Fencing
6. Signage

D. Design Principles- The following design principles should be considered when reviewing and taking action on development proposals.

1. Walkability- Create pedestrian friendly street design.
2. Connectivity- Provide interconnected street grid and connections between adjacent properties where appropriate.
3. Mixed-use and Diversity- Allow and encourage mixed housing types, sizes and price ranges where appropriate

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4. Quality Architecture and Urban Design- Encourage the emphasis on beauty, aesthetics, human comfort and scale to the greatest extent possible.
5. Protect the Existing Neighborhood Structure-
6. Encourage a Mixture of Transportation Choices- Look to increase opportunities for walking, biking and public transportation.
7. Consider the how the project affects quality of life for the surround area.

E. Definitions-

Character-The quality of a place, which encompasses a number of attributes and features. For the purposes of these Design Guidelines, the character of a place should be determined from observations close up and from a distance, and include consideration of the project's building shape, openings, roof lines, projections, trim and its overall setting.

Historic- Structures or properties belonging to and built in the past; generally of an age of 50 years or older.

Historic Elements- The parts and places of a development application and its surroundings that are Historic in nature.

Outside Elements Visible from Street- The physical elements (yard and/or structures) of the application/site that are visible from a public street; either front yard or rear yards in the case of double frontage lots.

Vacant Lot- Any lot that is free and clear of any structures, not including utilities.

F. Design Guidelines- All plans where site design is reviewed shall consider the following:

1. General Design Character- This is an important part of new development on vacant development lots. The deciding authority shall determine the design character and historic significance of the surrounding structures and use that in assessing the development proposal.
 - a. Applicant must provide written, graphic or photographic documentation of the surrounding structure's age and styles.
 - b. The proposed project should respect the surrounding conditions and settings through a comparative analysis of the surrounding area. This may be established by documenting the closest 5 existing buildings on both sides of the street in both directions. (Note: Suggested means to accomplish this are through site visits or using Street Views in Google Mapping)
 - c. Evaluate and determine which design elements in the surrounding area are essential to the character of the proposed development.

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2. General Site Design- In addition to determining the general design character of the surrounding area and how the application will be compatible with it. The following general site design elements shall be considered in making the new development proposal as compatible as possible to the surrounding area.
 - a. Set Backs- In addition to minimum setbacks established in Section 4 Zoning Districts, the vacant lot development shall maintain the pattern and alignment of the established buildings by using traditional (or average) setbacks from the street. This may be established by documenting the setbacks for the closest 5 existing buildings on both sides of the street in both directions.
 - b. Entrances- The proposed development's structure(s) entrances should be clearly visible, accessible and oriented to the street and be delineated by overhangs, porches and lighting.
 - c. Fences- No new chain link fences shall be allowed in vacant development lot for any front yard including corner lot side yards.
 - d. Vehicular Surfaces- All driveways, parking lots and vehicular use areas such as drive lanes shall be paved. Permeable paving should be considered to help reduce surface run-off.
 - e. Parking Lots:
 - Commercial parking lots, including multi-family apartments shall be screened from public streets and adjacent properties using either a 5-foot wide landscape buffer or fencing. At the time of installation the shrubs shall be a minimum 3-foot tall and be maintained at 6 feet as growth occurs. Fencing shall be no taller than 4 feet tall in front yards and be a minimum of 6 foot tall on side yards, beginning at the building line.
 - Parking lots with more than 20 spaces shall include a landscaped island (10' x 10') for each 20 parking spaces.
 - Parking lots should be located to the side or rear of the proposal to the greatest extent possible.
 - All parking and vehicular use areas shall be dustless, paved and durable. Permeable pavement is encouraged.
 - f. Signs- In addition to the Signage regulations as found in Article VI, Section 30, flush mounted signs should be positioned to fit within architectural features.
 - g. Outside Elements Visible from Street-
 - Sidewalks for the vacant development lot shall be repaired, replaced and in a safe condition prior to the issuance of a Certificate of Occupancy.
 - Street trees and landscaping are encouraged on vacant development lots.
3. Guidelines for Commercial Buildings-

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- a. The project should follow the general design character recommendations as per F, Design Guidelines.
 - b. Display windows- Provide large 1st floor display windows that are characteristic of traditional commercial buildings.
 - c. Second Story Windows- Provide appropriate sized and shaped upper story windows
 - d. Building Entrances- Provide appropriate recessed entrances to building.
 - e. Building Location-
 - The building shall be located close to street as possible
 - Allow room for streetscape design elements and pedestrian activity.
 - Avoid parking lots in front if possible.
 - f. Roofs- Rooflines should be compatible with the surrounding area's structures.
 - g. Building Materials- All exposed wood materials used during construction, shall be painted, stained or other similar protective coating.
4. Guidelines for Residential Structures
- a. The project should follow the general design character recommendations as per F, Design Guidelines.
 - b. Porches, steps and columns should be included as desired elements.
 - c. Trim and ornamentation should be used to match the surrounding character of the area.
 - d. Roof pitch should be compatible with the surrounding structures
 - e. Windows should retain their original proportions as close as is reasonable. No replacement window shall be less than 50% of its original size (within framed sill).
5. General Design Guidelines for New Construction
- a. Align the facade of the new building with the established or average set-back in the area (5 buildings in each direction)
 - b. Use building forms and rooflines that match those used historically in the area.
 - c. New buildings should appear similar in mass and scale to structures in the area.
 - d. The main entrance should be oriented in a manner similar to established patterns in the area.
 - e. If porches are typical to the area, they should be used in conjunction to the entrance for the new structure.
 - f. Window size and proportions that are typical for the surrounding area should be used on the new building.
 - g. Parking for the new structure should be behind the building front if at all possible.

G. Written Recommendations-

1. The deciding body or authority of the Design Guidelines shall make written recommendations and transmit them to the applicant within 10 business days.

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2. The applicant may appeal recommendations to the Board of Appeals but must do so within 30 days of receipt of the recommendations.

SECTION 38 - PWSF—Personal Wireless Service Facilities (Cell towers)

A. Purpose and Intent

The purpose of this section is to accommodate the need for telecommunication facilities in appropriate areas of the City of Amsterdam, while protecting the public against any adverse impacts to aesthetic resources or the public safety and welfare. The intent of this section is to:

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

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

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

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

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

TOWER—Any ground or roof mounted pole, spire, structure or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces and masts, built for

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the purpose of mounting an antenna, meteorological device or similar apparatus above ground.

C. Requirements

No Personal Wireless Service Facility shall be erected, constructed, installed, operated or modified except as set forth below, and upon issuance of Site Plan Approval by the Planning Commission pursuant to Article VIII of this Zoning Law. An applicant for PWSF Site Plan Approval must be a Personal Wireless Service Provider licensed by the Federal Communications Commission (FCC), or must provide a copy of an executed contract to provide land or facilities to a licensed PWSF provider at the time that an application is submitted. A “letter of intent” is not acceptable to exhibit a binding agreement with a provider for use of said facility. No approval shall be granted for a tower or facility to be built on speculation. At the time of submission, the applicant shall pay a Personal Wireless Service Facility Application fee in accordance with the fee schedule established and annually reviewed by the Common Council. Applicants for Site Plan Approval shall file with the Planning Commission ten (10) copies of the following documents:

1. **Site Plan.** A Site Plan, in conformance with applicable site plan submission requirements and procedures contained in Article VIII of the Zoning Law. The Site Plan shall show elevations, height, width, depth, type of materials, color schemes, and other relevant information for all existing and proposed structures, equipment, parking, and other improvements. The Site Plan shall also include a description of the proposed Personal Wireless Service Facilities, and such other information that the Planning Commission may require.
2. **Environmental Assessment Form.** A completed Part 1 of the Full Environmental Assessment Form (FEAF), including the Visual EAF Addendum. Particular attention shall be given to visibility from key viewpoints identified in the Visual EAF Addendum, existing tree lines and proposed elevations. The Project Description in Part 1 of the FEAF should include the anticipated five year build-out of the provider’s telecommunications network in the City, including any future planned Personal Wireless Service Facilities.
3. **Landscape Plan.** A Landscape Plan delineating the existing trees or areas of existing trees to be preserved, the location and dimensions of proposed planting areas, including the size, type and number of trees and shrubs to be planted, curbs, fences, buffers, screening elevations of fences and materials used. For towers or monopoles, the Landscaping Plan shall address the criteria set forth in Article VIII, Section 49.
4. **Documentation of Proposed Height.** Documentation sufficient to demonstrate that the proposed height is the minimum height necessary to provide service to locations, which the applicant is not able to serve with existing facilities within and outside the City.
5. **Statement Regarding Co-Location.** For new Personal Wireless Service Facilities, a statement by the applicant as to whether construction of the Facility will accommodate co-location of additional Facilities for future users.

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6. **Structural Engineering Report.** A report prepared by a New York State licensed professional engineer specializing in structural engineering as to the structural integrity of the Personal Wireless Service Facility, and certifying that it is designed to meet all local, State and Federal structural requirements for load, including wind and ice loads. In the case of a tower or monopole, the Structural Engineering Report shall describe the structure's height and design including a cross section of the structure, demonstrate the structure's compliance with applicable structural standards and describe the structure's capacity, including the number of antennas it can accommodate and the precise points at which the antennas shall be mounted. In the case of an antenna mounted on an existing structure, the Structural Engineering Report shall indicate the ability of the existing structure to accept the antenna, the proposed method of affixing the antenna to the structure, and the precise point at which the antenna shall be mounted.
7. **Engineering Analysis of Radio Emissions.** An engineering analysis of the radio emissions, and a propagation map for the proposed Personal Wireless Service Facilities. The analysis shall be prepared and signed by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio communication facilities. The results from the analysis must clearly show that the power density levels of the electromagnetic energy generated from the proposed Facility are within the allowable limits established by the Federal Communication Commission (FCC), which are in effect at the time of the application. If the proposed Personal Wireless Service Facilities would be co-located with an existing Facility, the cumulative effects of the Facilities must also be analyzed. The power density analysis shall be based on the assumption that all antennas mounted on the proposed Facility are simultaneously transmitting radio energy at a power level equal to the maximum antenna power rating specified by the antenna manufacturer.
8. **Map of Proposed Coverage and Existing and Future Facilities.** A map showing the area of coverage of the proposed Facility and listing all existing Personal Wireless Service Facilities in the City and bordering municipalities containing Personal Wireless Service Facilities used by the applicant, and a detailed report indicating why the proposed Personal Wireless Service Facilities is required to provide service to locations which the applicant is not able to serve with existing Facilities which are located within and outside the City by co-location and otherwise. This coverage map should also delineate the anticipated five-year build out of the applicant's network, including any future planned Personal Wireless Service Facilities.
9. **Visual Impact Analysis.** The applicant shall prepare a Visual Impact Analysis which includes the following items: (This requirement may be waived by the Planning Commission at the Sketch Plan Conference for applications which propose co-location on an existing PWSF or attachment to an existing structure.)
 - a. Viewshed Map based on a USGS 7.5' quadrangle map delineating potential visibility zones at foreground (0-0.5 miles), middle ground (0.5-3.5 miles) and background (3.5-5.0 miles) from the proposed facility. All public use areas

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- and visually sensitive resources should be identified. A minimum of eight (8) line of sight profile transects should be delineated at 45 degree intervals.
- b. **Balloon Test.** Within 30 days of submitting the application, the applicant shall fly a brightly colored weather balloon at least five feet (5') in diameter at the maximum height of the proposed Personal Wireless Service Facility, for four (4) consecutive daylight hours. At least two (2) weeks prior to the balloon test, the applicant shall mail notification of the date and time of the test to the Planning Commission and to all landowners whose property is located within one thousand (1,000) feet of any property line of the parcel on which the facility is proposed. The Applicant shall also advertise the date, time, and location of the balloon test in the City's official newspaper 7-14 days in advance of the test.
 - c. **Photo simulation of "before and after" views of the proposed facility from key viewpoints both within and outside the City, including, but not limited to major roads, public land, historic sites, or other locations where the site is visible to a large number of residents, visitors, or travelers.**
10. **Escrow Account.** An applicant shall deposit with the City funds sufficient to cover the reasonable costs of expert engineering evaluations and consultation in connection with the application review. These independent engineering evaluations may include site plan, structural, radio frequency, and other reviews as necessary. The City will maintain a separate escrow account for these funds. An initial deposit of \$7,500 shall accompany the filing of the application, and subsequent deposits may be required to maintain a balance of no less than \$2,500. At the conclusion of the review, any excess funds in the escrow account will be promptly refunded to the applicant.
11. **Intermunicipal Notification for New Personal Wireless Service Facilities.** In order to facilitate intermunicipal cooperation, and the possible shared use of Personal Wireless Service Facilities, an applicant for a new Personal Wireless Service Facility must notify in writing the legislative body of each municipality that borders the City of Amsterdam (the Towns of Amsterdam and Florida; and the Village of Fort Johnson) of their intended application. Notification must include a map showing the exact location of the proposed facility and a general description of the project including, but not limited to, the height of the facility and its capacity for future shared use. Documentation of this notification must be submitted to the City with the initial application.
12. **Public Hearing.** A public hearing shall be held on the proposed Personal Wireless Service Facility Site Plan Review within sixty (60) days of the application submission. Notice of said hearing shall be published in the City's official newspaper at least five (5) days prior to the hearing. Notice of the hearing shall be sent to the Montgomery County Planning Board if the project is subject to review under General Municipal Law § 239-m, accompanied by a full statement of the proposed project. The applicant shall be required to mail notice of the public hearing to all landowners whose property is located within one thousand (1,000) feet of any property line of the parcel on which the facility is proposed, at least two (2) weeks prior to the date of said public hearing. Notification shall be

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made by U.S. Certified Mail, return receipt requested, and proof of such mailing shall be presented to the Planning Commission at the public hearing.

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

D. Tower building requirements

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

E. Setbacks for towers and accessory structures

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

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

F. Criteria for Site Plan Applications

Applicants for Site Plan Review for the establishment of construction of Personal Wireless Service Facilities shall meet all of the following criteria:

1. **Necessity.** The applicant must prove that the proposed Personal Wireless Service Facility is necessary in order to provide service to locations which the applicant is not able to serve with existing Facilities which are located within and outside the City by co-location and otherwise. Furthermore, the applicant must demonstrate that the proposed facility is the least intrusive means available to fill a significant

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- gap in coverage. The application must document good faith efforts to secure co-location on existing Personal Wireless Service Facilities, and to secure shared use from owners of all existing tall structures in the coverage area. Any physical, technical and/or financial reasons, which make co-location or shared use unfeasible, must be documented.
2. **Co-location.** The co-location on existing Personal Wireless Service Facilities shall be strongly preferred to the construction of new Personal Wireless Service Facilities. If a new site for a Personal Wireless Service Facilities is proposed, the applicant shall submit a report setting forth in detail:
 - a. An inventory of existing Personal Wireless Service Facilities which are within a reasonable distance from the proposed Facility with respect to coverage,
 - b. An inventory of existing Personal Wireless Service Facilities in other municipalities which can be utilized or modified in order to provide coverage to the locations the applicant is seeking to serve, and
 - c. A report on the possibilities and opportunities for co-location as an alternative to a new site.
 - d. The applicant must demonstrate that the proposed Personal Wireless Service Facilities cannot be accommodated on an existing Facility or on an existing Facility in another municipality due to one or more of the following reasons:
 - (1) The proposed equipment would exceed the existing and reasonably potential structural capacity of existing and approved Personal Wireless Service Facilities, considering existing and planned use for those Facilities.
 - (2) The existing or proposed equipment would cause interference with other existing or proposed equipment which could not reasonably be prevented or mitigated.
 - (3) Existing or approved Personal Wireless Service Facilities in neighboring municipalities do not have space on which the proposed equipment can be placed so it can function effectively and reasonably, and the applicant has not been able, following a good faith effort, to reach an agreement with the owners of such Facilities.
 - (4) Other reasons make it impractical to place the proposed equipment on existing and approved Personal Wireless Service Facilities in other municipalities.
 - (5) Service to the locations to which the applicant seeks to provide service cannot be provided by existing facilities within or outside the City.
 3. **Minimum Lot Size.** The minimum lot size for a tower or monopole shall be equal to the square of twice the tower's or monopole's height, or the minimum lot size required by the underlying zoning district, whichever is greater.
 4. **Setbacks.** Unless the FCC promulgates rules to the contrary, all Personal Wireless Service Facilities shall be separated from all existing residential dwellings by a distance of no less than five hundred (500) feet. Personal Wireless Service Facilities must comply with all setback requirements of the underlying zoning district, or must be located with a minimum setback from any property line equal to two (2) times the height of the tower, whichever is greater. The Planning

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Commission may grant a waiver from the property line setback if such waiver would allow the new facility to be located on an existing tall structure or tower. Setbacks from towers or monopoles shall be measured from the base of the structure.

5. **Security Fencing.** Security fencing shall be provided, around each tower or monopole to secure and visually screen the site. Access to the structure shall be through a locked gate.
6. **Architectural Compatibility.** Whenever feasible, Personal Wireless Service Facilities shall locate on existing structures, including, but not limited to buildings, silos, water towers, utility structures, and existing communication facilities, provided that such installation preserves the character and integrity of these structures. Where a Personal Wireless Service Facility is to be attached to an existing building or structure, such facility shall be integrated into such existing building or structure in such a manner, which blends with the architectural characteristics of the building or structure to the maximum extent practicable.
7. **Placement.** Unless wall-mounted on an existing roof-mounted mechanical enclosure or similar appurtenance, all antennas mounted on a roof shall be located so that visibility of the antenna is limited to the greatest extent practicable. Antennas wall-mounted on a roof mounted mechanical enclosure or similar appurtenance shall not extend above the height of the appurtenance at the attachment location.

G. Design Guidelines

The proposed Personal Wireless Service Facility shall meet the following applicable design guidelines:

1. **Finish/Colors.** Towers or monopoles not requiring Federal Aviation Administration (FAA) painting or marking shall either have a galvanized finish or be painted to blend with their surroundings. Accessory structures shall maximize the use of building materials, colors and textures designed to harmonize with the natural or manmade surroundings.
2. **Illumination.** No signals, lights or illumination shall be permitted on Personal Wireless Service Facilities unless required by the FAA or other federal, state or local authority.
3. **Landscaping for Towers or Monopoles.** For towers or monopoles, vegetative screening shall be provided to effectively screen the tower base and accessory facilities. At a minimum, screening shall consist of one row of native evergreen shrubs or evergreen trees capable of forming a continuous hedge at least ten (10) feet in height within two (2) years of planting. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute of or in supplement toward meeting landscaping requirements. Additional screening may be required to screen portions of the structure from nearby residential property or important views. All landscaping shall be properly maintained to ensure good health and viability, for the life of the facility.
4. **Visibility.** All Personal Wireless Service Facilities shall be designed and sited to have minimum adverse visual effect on residential areas, parks or major

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roadways. Attachment to existing structures and stealth design techniques, which mimic or integrate antenna into manmade structures such as steeples, cupolas, farm structures, flagpoles, etc. are highly encouraged. When this is not feasible, tower structures offering slender silhouettes (i.e. monopoles) are preferable to freestanding lattice style structures.

5. **Signage.** Signage shall be prohibited on Personal Wireless Service Facilities except for signage to identify the Facility, which is located along the right-of-way frontage. Except as specifically required by a federal, state or local authority, no signage shall be permitted on equipment Mounting Structures or Antennas.

H. Construction and Maintenance

1. **Time Limit for Completion.** A building permit must be obtained within six (6) months after approval of a Site Plan for a Personal Wireless Service Facility and construction of such Facility must be completed within twelve (12) months of such approval. The Site Plan Approval shall automatically expire in the event that the Building Code Enforcement Officer has not granted such permit and construction of the Facility is not completed with the periods set forth above.

2. Annual Inspections

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

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levels of the electromagnetic energy to be generated at the Facility are below the applicable standards.

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

I. Alteration of an Existing Antenna

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

1. Plans, elevations and details of the proposed alterations. Certification by a New York State Licensed Engineer specializing in structural engineering that the structure is capable of carrying the design load of the proposed alterations, and that the modifications will not result in an increase in the overall height of the structure.
2. Certification by a New York State Licensed Engineer with expertise in radio communication facilities that the total radio frequency emissions generated after modification are within the allowable limits established by current FCC regulations.

J. Effect of law on existing towers and antennas

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

1. Antennas and towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this law.
2. If such antennas or towers are hereafter damaged or destroyed due to any natural reason or cause whatsoever, the antenna or tower may be repaired and restored to its former use, location and physical dimensions without complying with this law; provided, however, that, if the cost of repairing the tower to the former use,

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physical dimensions and location would be 10% or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this law. Proof of such cost shall be submitted to the City of Amsterdam Building Inspector prior to commencement of any construction.

K. Exemption from this Section

The following are exempted from the provisions of this Section:

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

SECTION 38.1 – Solar Energy Systems and Equipment

As used in this section, the following terms shall have the meanings as indicated:

SOLAR ENERGY EQUIPMENT AND SYSTEMS

Solar collectors, controls, energy storage devices, and any other materials, hardware or equipment necessary to the process by which solar radiation is collected and converted into another form of energy and is stored, protected from unnecessary dissipation and distributed. Solar energy systems include solar thermal, photovoltaic and concentrated solar.

ACCESSORY STRUCTURE

A structure, the use of which is customarily incidental and subordinate to the principal building, and is located on the same lot or premises as the principal building.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS

A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or façade and which does not alter the relief of the roof.

COLLECTIVE SOLAR

Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” programs, or other similar arrangements.

ENERGY STORAGE DEVICE

A device that stores energy from the sun or another source and makes it available for use.

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FLUSH-MOUNTED SOLAR PANEL

Solar collector systems, panels, and tiles that are installed flush to the surface of a roof or wall of a principal and/or an accessory structure and which cannot be angled or raised for the direct conversion of solar energy into electricity.

FREESTANDING OR GROUND-MOUNTED SOLAR COLLECTOR SYSTEM

A solar collector system that is directly installed on the ground and is not attached or affixed to an existing structure and used for the direct conversion of solar energy into electricity.

GLARE

The effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

NET-METERING

A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

PERMIT GRANTING AUTHORITY

The City of Amsterdam Code Enforcement is the authority authorized to grant permits for the installation of alternative energy systems.

PHOTOVOLTAIC (PV) SYSTEMS

A solar energy system that produces electricity by the use of the semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

ROOFTOP OR BUILDING MOUNTED SOLAR COLLECTOR SYSTEM

A solar collector in which solar panels are mounted on top of a roof of a principal and/or an accessory structure either as a flush-mounted system for the direct purpose of converting solar energy into electricity.

SETBACK

The distance from a front lot line, side lot line, or rear lot line of a parcel within which a free standing or ground mounted solar energy system is installed.

SMALL-SCALE SOLAR COLLECTOR SYSTEM

A solar energy system that is designed and/or built to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, and is constructed for the sale of excess power through an arrangement in accordance with New York Public Service Law 66-j or similar state or federal law or regulation.

SOLAR ACCESS

Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

SOLAR ARRAY

A group of multiple solar modules with purpose of harvesting solar energy.

SOLAR CELL

The smallest basic solar electric device which generates electricity when exposed to light.

SOLAR COLLECTOR

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A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY EQUIPMENT/SYSTEM

Solar collectors, controls, energy devices, heat pumps, heat exchangers, and or 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 concentrated solar.

SOLAR, GROUND OR POLE-MOUNTED SOLAR ARRAY

Any solar collector, controls, solar energy device, heat exchanges or solar thermal energy system which is directly installed on the ground and not affixed to an existing structure.

SOLAR PANEL

A device for the direct conversion of solar energy into electricity.

SOLAR STORAGE BATTERY

A device that stores energy from the sun and makes it available in an electrical form.

SOLAR-THERMAL SYSTEMS

Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

UTILITY-SCALE SOLAR COLLECTOR SYSTEM

A solar energy system that is designed and/or built to provide energy as an ongoing commercial enterprise, or for commercial profit, or designed to distribute energy generated to a transmission system for distribution to customers rather than for use on the site. A utility-scale solar use may include solar energy system equipment and uses, such as but not limited to supporting posts and frames, buildings and/or other structure(s), access drives, inverter equipment, wires, cables and other equipment for the purpose of supplying electrical energy produced from solar technologies, whether such use is a principal use, a part of the principal use or an accessory use or structure.

Small-scale solar collector system

A. Purpose and intent.

1. The purpose of these regulations is to balance the potential impact on neighbors where solar collectors may be installed near their property while preserving the rights of property owners to install solar collection systems without excess regulation. These regulations are not intended to override the New York State Agriculture and Markets Law.
2. Solar energy is a renewable and nonpolluting energy resource that can prevent fossil fuel emissions and reduce energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid when excess solar power is generated.

B. Applicability.

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1. The requirements herein shall apply to all solar collector system installations modified or installed after the effective date of this section.
2. Solar collector system installations for which a valid building permit has been properly issued, or for which installation has commenced before the effective date of this section, shall not be required to meet the requirements of this section, except in accordance with Subsection D, Safety, found here in this section. Any modification, expansion or alteration to an existing solar collector system shall only be permitted in accordance with Small scale solar collector system section herein.
3. All solar collector systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code.

C. Permitting.

1. Rooftop and flush-mounted solar collectors are permitted outright in all zoning districts in the City of Amsterdam subject to the following conditions:
 - a. Building permits shall be required for installation of all rooftop and flush-mounted solar collectors.
 - b. Height limitations for structures found in Article IV, Use Regulations (based on zoning district), shall apply.
 - c. Rooftop and flush-mounted solar collector systems are permitted on the following structures:
 - i. All principal structures; except a special use permit from the Planning Commission is required within the Historic Resources Overlay District.
 - ii. All accessory structures that meet the principal structure setbacks as required in each zoning district.
 - d. Rooftop units must be three feet from any chimney and shall not be permitted on any roof overhangs.
 - e. Any solar collector system attached to a pitched roof shall not extend more than three feet from the surface of the angle of the roof.
2. Ground-mounted racks and freestanding solar collectors are permitted as a special permit in all zoning districts in the City of Amsterdam, subject to the following conditions which shall be processed and enforced by the City Code Enforcement:
 - a. Building permits shall be required for installation of all ground-mounted and freestanding solar collectors.
 - b. Special use permit from the Planning Commission is required for all ground-mounted racks and freestanding solar collectors greater than 10 feet in height or greater than 20 feet in length, or if the solar array surface area is greater than 200 square feet in the aggregate in all residential zoning districts. All other ground-mounted racks and freestanding solar collectors shall follow the standard building permit process.
 - c. All ground-mounted racks and freestanding solar collectors shall have a maximum height of 20 feet from ground elevation.
 - d. All ground-mounted racks and freestanding solar collectors installed in the side or rear yards shall comply with the setback requirements for a principal structure found in Article IV, Use Regulations (based on zoning district).

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- e. Solar collectors may not be installed in any front yard. As per Section 27 Corner Lots, all corner lots shall be deemed to have two front yards.
- f. Solar collectors and energy equipment shall be located in a manner that reasonably minimizes shading of adjacent property and blockage for surrounding properties while still providing adequate solar access for collectors.
- g. Freestanding solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping or other screening which will harmonize with the character of the property and surrounding area.

D. Safety.

- 1. All solar energy systems and solar collectors must obtain a building permit and shall be designed to be installed to be in conformance with the New York Uniform Fire Prevention and Building Code Standards that are applicable when the building permit is issued.
- 2. Prior to operation, electrical connections must be inspected by the City Code Enforcement Officer and by appropriate electrical inspection person or agency, as determined by the City.
- 3. 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 by no later than 90 days after the end of the twelve-month period.
- 4. Solar Energy Systems and Equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.
 - a. For commercial application, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.
- 5. If solar storage batteries are included, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use. When they are no longer in use, they shall be disposed of in accordance with the laws of New York State Fire Prevention and Building Code and local laws of the City of Amsterdam and any other applicable laws or regulations.
- 6. Glare and heat. No direct or unreasonable glare or transmission of heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.

Utility-scale solar collector system

A. Purpose and intent.

- 1. The purpose of these regulations is to provide utility-scale solar collector systems through performance criteria that balance the unique characteristics of each site.

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2. In any instances where specific permitted uses, area, or height standards, development guidelines and/or review procedures specifically set forth in this section conflict with any other general provision or requirements of the Zoning chapter, the particular provisions set forth herein shall take precedence and control. In all instances not specifically addressed in this section or in Article IV, Use Regulations (based on zoning district), the Zoning chapter shall apply.
- B. Bulk and area requirements. The following dimensional requirements shall apply to all utility-scale solar collector systems:
1. Height.
 - a. All solar collectors shall have a maximum height of 20 feet from ground elevation.
 - b. All buildings and accessory structures associated with the utility-scale solar collector system shall have a maximum height of 35 feet, excluding the solar collector.
 2. Setback. All utility-scale solar collector systems and associated buildings, accessory structures and equipment shall have a minimum setback from any property line of 200 feet. A 200 foot setback is not required between an individual property owners' utility scale solar collector system when subdivided based on National Grid policy.
 3. Lot coverage.
 - a. Impervious surface lot coverage. All utility-scale solar collector systems and associated accessory structures and equipment shall utilize a maximum of 20% impervious lot coverage.
 - b. Pervious surface lot coverage. All utility-scale solar collector systems and associated accessory structures and equipment shall utilize a minimum of 80% permeable lot coverage.
 - c. Tree removal shall be minimized and replanting, at the discretion of the Planning Commission, should be considered on parcels where a large amount of trees are being removed in order to place solar arrays.
- C. General provisions.
1. Site plan. All utility-scale solar collector systems shall provide a site plan in accordance with Article VIII of this Zoning chapter.
 2. Signage. All signage shall be provided as part of site plan review and shall be in accordance with Section 40 of this Zoning chapter.
 3. Visual.
 - a. Utility-scale solar collector systems shall be sited in a manner to have the least possible practical visual effect on the environment.
 - b. A visual environmental assessment form (Visual EAF), landscaping plan and visual assessment report, including appropriate modeling and photography assessing the visibility from key viewpoints identified in the Visual EAF, existing tree lines, surrounding topography, and proposed elevations shall be required.
 - c. Landscaping, screening and/or earth berming shall be provided to minimize the potential visual impacts associated with the utility-scale solar collector systems and its accessory buildings, structures and/or equipment. Additional landscaping, screening and/or earth berming may

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be required by the City Council and/or the Planning Commission to mitigate visual and aesthetic impacts.

- d. The associated structure shall be screened, placed underground, depressed, earth bermed or sited below the ridgeline to the greatest extent feasible, particularly in areas of high visibility.
4. Lighting. A lighting plan shall be required. No utility-scale solar collector system shall be artificially lighted unless otherwise required by a federal, state or local authority. Exterior lighting may be provided for associated accessory structures and access entrances as may be determined appropriate for security purposes only.
5. Utilities. The applicant shall provide written confirmation that the electric grid has the capacity to support the energy generated from the utility-scale solar collector system. Electrical and land-based telephone utilities extended to serve the site shall be underground.
6. Access. The applicant shall indicate on a site plan all existing and proposed access to the site, including road, electric power, emergency access, land-based telephone line connection, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and determined acceptable by the Planning Commission through site plan review.
7. Glare and heat. No direct or unreasonable glare or transmission of heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.
8. Ownership. In the case of an application for a utility-scale solar collector system to be located on private lands owned by a party other than the applicant or the City, a copy of the lease agreement with the property owner shall be filed with the City.
9. Proof of insurance. The applicant and the owner of the property where the utility-scale solar collector system is to be located shall file with the City proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof.
10. Security provisions. Each site shall have a minimum of an eight-foot security fence to prevent unauthorized access and vandalism to the utility-scale solar collectors and a security program for the site as approved by the Planning Commission during site plan review.
11. Noise. Noise-producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties as approved by the Planning Commission during site plan review.
12. Documentation from the utility company, verifying that the utility-scale solar collector system is active, shall be provided annually to the City of Amsterdam Code Enforcement.
13. The following requirements shall be met for decommissioning:
 - a. Solar farms and solar power plants which have not been in active and continuous service for a period of 12 consecutive months shall be removed at the owners or operators expense.
 - b. The site shall be restored to as natural a condition as possible within 6 months of removal.

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D. Removal of obsolete/unused facilities. Required sureties for construction, maintenance and removal of utility-scaled solar collector systems.

- a. Performance bond and other security. Prior to the issuance of a building permit, a performance bond or other security sufficient to cover the full cost of the removal and disposal of the utility-scale solar collector system and any associated accessory structures upon abandonment of said facility shall be provided by the owner/operator. This cost shall be determined by an estimate of the City Code Enforcement. Any such security must be provided pursuant to a written security agreement with the City, approved by the City Council and also approved by the City Attorney as to form, sufficiency and manner of execution. The form of security shall be limited to those permissible under NYS City Law. If the owner of the site fails to comply with any conditions of the approval during construction or as part of the long-term maintenance of the site, all costs of the City incurred to comply with conditions of the approval shall be paid using the surety provided by the applicant. Failure to comply with the conditions of the approval or to maintain an acceptable level of surety will result in revocation of the certificate of occupancy.
- b. Removal. The utility-scale solar collector system, including any accessory structures and/or equipment, shall be dismantled and removed from the site when the utility-scale solar collector system has been inoperative or abandoned for 12 consecutive months. As a condition of the certificate of compliance, applicants shall post a surety in an amount and form acceptable to the City for the purposes of removal or abandonment. The amount shall be determined by an estimate of the City Code Enforcement. Acceptable forms shall include, in order of preference: cash; letter of credit; or a bond that cannot expire; or a combination thereof. Such surety will be used to guarantee removal of the utility-scale solar collector system should the system be abandoned. Abandonment shall be assumed by the City if the annual documentation as required in Utility scale solar collector system section [\(12\)](#) is not provided by the owner, applicant or lessee for one year to the City of Amsterdam Code Enforcement. The City Code Enforcement shall then provide written notice to the owner to remove the utility-scale solar collector system, and the owner shall have three months from written notice to remove the utility-scale solar collector system, including any associated accessory structures and/or equipment, and restore the site to a condition approved by the Planning Commission. If the owner, applicant or lessee fails to remove any associated structures or restore the site to the condition approved by the Planning Commission, all costs of the City incurred to comply with this condition shall be paid using the surety provided by the applicant

E. Building permit fees for solar panels.

- a. The fees for all building permits required pursuant to this Local Law shall be paid at the time each building permit application is submitted in such reasonable amount as the City Council may be resolution establish and amend from time to time.

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F. Effective date.

- a. This law shall take effect after its adoption upon filing with the New York State Secretary of State.

SECTION 39 - Off-street parking and loading standards

In all districts except the Downtown Core (DC) District, at the time any new building or structure is erected, any existing building or structure enlarged or new or changed use of either land or structure established, off-street parking and loading space shall be provided in accordance with the minimum standards set forth below.

A. Required number of off-street parking spaces. The minimum number of off-street parking spaces stated below shall be required in addition to one off-street parking space for each company vehicle associated with commercial, business or light industrial use.

Residential Uses:

Single-family dwelling
Two-family dwelling
Multifamily rental dwelling
Boarding—or rooming House

Home occupation

Required Off Street Parking Spaces

2 spaces
3 spaces
1.5 spaces per dwelling unit
1 space per guest room, plus required spaces for occupants of other dwelling units on premises
1 space minimum, additional parking requirement to be determined through Special Use Permit process, See Article VII.

Institutional Uses:

Churches, meeting halls, membership clubs, auditoriums, theaters or other places of public assembly not otherwise specified

Hospitals or nursing homes

1 space per 4 seats or 60 square feet of seating area where fixed seating is not provided

1 space per 3 beds, plus 1 space per employee in largest shift

Commercial Uses:

Hotel or motel
Medical, dental and health clinic or medical and dental office
Professional or business offices
Retail, service or trade shop or establishment
Eating or drinking establishment

Funeral homes

Recreational facilities

Shopping centers

Motor vehicle sales establishment

Gas station, motor vehicle repair shop,

1 space per guest room

4 spaces per doctor or dentist or other health care professional

1 space per 200 square feet of gross floor area

1 space per 150 square feet of gross floor area

1 space per 3 seats or 50 square feet of gross floor area

1 space per 50 square feet of public area

1 space per 200 square feet of gross floor area

1 space per 150 square feet of gross leasable area

1 space per 500 square feet of gross floor area

3 spaces per garage bay, plus 1 per employee

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car wash

Theaters, auditoriums, sports areas 1 space per 4 seats or seating capacity
or similar places of public assembly

Light Industrial Uses:

All uses 1 space per employee or combination of two
largest shifts

B. Design standards for off-street parking lots.

1. All off-street parking lots shall be maintained and operated on a no-charge basis to the user public if spaces are provided to meet the minimum off-street parking requirements set forth above in this section.
2. All off-street parking lots shall be paved with a properly drained, dustless all-weather surface.
3. No space in an off-street parking lot shall be located within five feet of a rear or side property line or 10 feet of the street line. In any residential district, no space in an off-street parking lot shall encroach on any required front yard.
4. Visual screening of any off-street parking lot shall be provided from adjoining residential properties through use of appropriate fencing and natural hedge-like planting materials.
5. Unobstructed access to and from a public street shall be provided. Such access may not be located nearer than 30 feet to the intersection of any two street lot lines. Such access shall consist of at least one ten-foot lane for parking areas with less than 12 spaces and at least two ten-foot lanes for parking areas with 12 or more spaces. All access to off-street parking lots shall be limited to such well-defined locations, and in no case shall there be permitted unrestricted access along the length of the street upon which the parking area abuts.

C. Required off-street loading. Off-street loading berths, open or enclosed, are required accessory to the following uses:

For a public library, museum or similar quasi-public institution or community center, hospital, nursing home, school or similar uses
1 berth for the first 20,000 square feet of floor area and 1 additional berth for each additional 20,000 square feet or fraction thereof

For buildings with retail sales and service establishments, professional, governmental or business or laboratory establishments
1 berth for floor area of 7,500 to 25,000 square feet and 1 additional berth for each additional 25,000 square feet or fraction thereof

For hotels and motels
1 berth for each 25,000 square feet of floor area

For manufacturing, wholesale and storage uses and for dry-cleaning and laundry establishments
1 berth for 5,000 to 10,000 square feet and 1 additional berth for each additional 20,000 square feet or fraction thereof so used

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SECTION 40 - Sign regulations

Signs may be erected and maintained only when in conformance with the provisions of this section and Article VIII of this chapter.

A. **General standards.** The provisions contained in this section shall apply to all signs and all use districts, regardless of designation:

1. Any sign or use of signs not specifically permitted by provision of this chapter is prohibited.
2. No sign shall be located in such a way as to interfere with driver vision of other traffic.
3. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
4. No projecting sign shall be erected or maintained from the front or face of a building a distance of more than three feet, nor shall any sign project into or over a public right-of-way.
5. No sign shall be higher than the height limit in the district where such sign is located, nor shall any sign be placed on the roof of any building.
6. No portable or temporary sign shall be placed on the front of any building or premises, except as otherwise provided herein.
7. No sign shall be freestanding, except that one freestanding sign shall be permitted for each planned shopping center, as defined in this chapter, and for each major commercial or light industrial use located on an individual site in excess of two acres of land area. The gross surface area of such freestanding signs shall be included within the maximum sign area allowable in the applicable zoning district. Any such sign shall be located not less than 15 feet from any street line and not less than 10 feet from any other lot line.
8. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices. Included are signs, which are mechanically animated, such as moving, rotating or revolving signs. Said devices, as well as strings of lights, shall not be used for the purposes of advertising or attracting attention when not part of a sign.
9. All signs shall be constructed of wood, metal or other durable material approved by the Building Inspector.
10. No sign shall advertise a product or a service not principally available on the premises where such sign is located.
11. Not more than two signs, as defined herein, shall be permitted on any premises.
12. A canopy or an awning shall be considered to be a sign when displaying letters, numbers or symbols that advertise or announce a place, person, product, service or concept, except that a street address shall not be considered to be a sign. A

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canopy or an awning displaying signage shall not be considered to be a projecting or a hanging sign. A canopy or an awning displaying signage on more than one side shall be considered to be one sign and the allowable aggregate gross surface area of the signage shall be determined in accordance with the regulations of the zoning district in which it is located. An awning displaying signage shall be located on the lowest floor occupied by the business or service it is advertising or announcing.

13. Without prejudice to the existing nonconforming status of any sign, the owner of a sign and the owner of the premises on which each sign is located shall be jointly and severally liable to maintain such sign and supporting structure, including its illumination sources, in neat and orderly condition and good working order at all times and to prevent the development of any corrosion, rotting or other deterioration in the physical appearance or safety of such sign or supporting structure. Unsightly, damaged, deteriorated signs or signs in danger of falling shall be put in order or removed upon written notice from the Building Code Enforcement Officer.

B. Signs in residential districts. The following non-illuminated, accessory signs are permitted in the most restricted residential districts (LDN and MDN) and maybe erected without issuance of a permit or payment of a fee, except that in the Historic Resources Overlay (HR.-O) District all such signs identified in Subsection B (2), (4), (5), (6) and (7) shall be subject to review and approval by the Planning Commission.

1. Nameplates and identification signs indicating the name and address of the occupant, provided that they shall not be larger than two square feet in area. Only one such sign per dwelling unit shall be permitted, except in the case of corner lots where two such signs, one facing each street, shall be permitted for each dwelling unit.
2. For multiple-family dwellings and for buildings other than dwellings, a single identification sign not exceeding six square feet in area and indicating only the name and address of the building and the name of the management may be displayed, provided that on a corner lot two such signs, one facing each street, shall be permitted.
3. Signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any other person interested in the sale or rental of such premises, and signs bearing the word "sold" or "rented" with the name of the persons effecting the sale or rental may be erected or maintained, provided that:
 - a. The size of any such sign is not in excess of six square feet.
 - b. Not more than one sign is placed upon any property, unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.
 - c. Such sign or signs shall be removed within a reasonable time period after the premises has been sold or rented.
4. Institutional signs of schools, colleges, churches, hospitals or other similar public or semipublic nature may be erected and maintained, provided that:
 - a. The size of any such sign is not in excess of 12 square feet.

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- b. Not more than one such sign is placed on a property, unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.
5. Signs designating entrances or exits to or from a parking lot and limited to one sign for each such exit or entrance and to a maximum size of two square feet each shall be permitted. One sign per parking lot designating the conditions of use or identity of such parking lot and limited to a maximum size of nine square feet shall be permitted, provided that on a corner lot two such signs shall be permitted, one facing each street.
6. Development signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer or other persons interested in such sale or development, may be erected and maintained, provided that:
 - a. The size of any sign is not in excess of 20 square feet.
 - b. Not more than one such sign is placed upon any property, unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.
 - c. Any such sign shall be removed by the developer within 15 calendar days of the final sale.
7. Artisan's signs such as those of mechanics, painters and other artisans, may be erected and maintained during the period such persons are performing the work on the premises on which such signs are erected, provided that:
 - a. The size there of is not in excess of 12 square feet.
 - b. Such signs are removed promptly upon completion of the work.

C. Signs in the Downtown Core (DC) or Commercial Corridor (CC) Districts

General Design

- Signs should be clear and simple so readers can immediately absorb essential information.
- Signs should identify business names and should not advertise specific product names.
- Signage should be subordinate to the building. Sign shape and proportion should be appropriate to the building and its architectural elements.
- Signs should help define or enhance architectural elements; they should not cover, obscure, or alter architectural features of the building.
- The use of natural materials is encouraged. Materials should be durable and vandal-resistant.
- Sign design and location should be evaluated to ensure its architecturally appropriate.

Sign Text & Color

- Signage design should be creative; consider using images and graphics to promote business and the merchandise or service provided.
- Sign messages should be short (e.g. 4-8 words) with simple typography to enhance legibility and visibility. Avoid lettering that is overly ornate or difficult to read.
- Minimized wording and use traditional symbols to achieve a clear message.

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- Sign colors should be simple (e.g. a range of 3 colors) and compatible with the building color scheme and neighboring buildings. Too many colors may obscure the message and make it difficult to read.
- Sign colors should complement and relate to building colors for a coherent appearance.
- Sign legibility is enhanced by contrast between lettering and background, and the amount of open space surrounding the text.

Sign Placement & Mounting

- Signs should be located within appropriate architectural elements of the building. This may restrict the number of signs to fewer than the maximum number of signs permitted in the ordinance.
- The location of a sign usually determines its proportion and direction. For example, signs on the transom or wall should be horizontal; signs on the column or other vertical elements should be vertical.
- Sign support structures and their color should be subordinate to the sign message.
- All scars, anchor-holes, ghosts from previous sign installations should be repaired or removed.

Sign Lighting

- Light sources should be inconspicuous to avoid distracting attention from the sign.
- Signs may have external illumination (e.g. gooseneck fixtures), internal illumination (lighted box signs w/dark background), or have opaque, “halo-lit” letters.

Awning Signs

- An awning sign is permitted for each window and door of a façade. Signage may only be placed on one face of the awning; typically, the front.
- There is no restriction on letter/logo size or height but the total sign may not exceed 25% of the awning face or 100 square feet, whichever is less.
- Awnings may not extend more than 7 feet from the façade or be lower than 7 feet from the ground.

Wall Signs

- One wall sign is permitted per building street frontage, including alleys, and may identify multiple establishments (e.g. sign directories).
- Wall signs may not extend above the first floor of the building.
- Wall signs may not extend beyond the end or above the top of the wall to which it is attached, or more than 6” from the building face.
- Wall signs are permitted up to 2 square feet in size for each linear foot of building frontage attributed to the establishment, or 15% of total building façade area, or 100 square feet, whichever is less.
- A building with multiple storefront tenants may have a sign for each tenant.

Window Graphics

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- Signs/posters on window interiors are not regulated as long as they do not exceed 30% of the window surface or 100 square feet, whichever is less
- Interior window graphics that exceed 30% of the window area or 100 square feet, and any exterior window graphics are considered wall signs and must meet wall sign requirements.

Freestanding/Monument Signs

- One freestanding/monument sign is permitted on a parcel, and may identify more than one on-premise establishment.
- Sign height and size should promote a pedestrian scale and emphasis. Freestanding signs height is encouraged to be 8' in height or lower.
- A freestanding/monument sign shall not be located within 50 feet of another freestanding sign.
- A freestanding/monument sign may not extend into the public right-of-way or extend beyond property lines.

D. Signs in business, medical residential, commercial and light industrial districts.

The following accessory signs are permitted in any business, medical residential, commercial or light industrial district (MRN, LI or ED) in accordance with the following regulations and upon issuance of a permit by the Building Inspector. The aggregate gross surface area of all signs on a lot shall be as specified in the following table:

MR (Medical Residential)	2 square feet per foot of lot frontage, not to exceed 20 square feet
ED (Employment District)	1 square foot per foot of lot frontage, not to exceed 60 square feet
LI (Light Industrial)	1 square foot per foot of lot frontage, not to exceed 100 square feet

E. Temporary signs. All signs of a temporary nature, such as political posters, banners and signs of a similar nature, including school, church or civic functions, shall be permitted for a period not exceeding 30 calendar days, without permit or fee, provided that such signs are not attached to fences, trees, utility poles, regulatory signs or the like; and, further, provided that such signs are not placed in a position that will obstruct or impair vision or traffic in any manner. Such signs may not represent a commercial product, activity or enterprise and shall not exceed 30 square feet per side.

F. Directional signs. Businesses and public destinations shall be allowed not more than two off-premises directional signs in a district zoned for commercial or light industrial use as a special permit use subject to the provisions of Article VII of this chapter and the following requirements:

1. In locations with more than one directional sign, all such signs shall be affixed to a common standard and shall be graphically coordinated and arranged so as to present a neat and orderly appearance.

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2. No directional sign shall exceed six square feet in area. In areas with more than one directional sign, the aggregate area shall not exceed 30 square feet.

SECTION 41 - Fences and walls

- A. Fences and walls shall not exceed six feet in height when erected in side or rear yards, nor four feet in height when erected in any front yard or within 50 feet of the street or highway pavement, whichever is the more restrictive.
- B. All such fences and walls shall conform additionally to the requirements of Section 27 as pertains to corner lots, except for open-mesh chain link fences, which may be permitted upon review by the Planning Commission if it can be demonstrated that visibility at the intersection will not be significantly impaired.
- C. All such fences and walls shall be measured from the ground level at the base of the fence or wall, except that if there is a retaining wall, the height shall be measured from the average of the ground levels at each end of said retaining wall.

SECTION 42 - Excavation as part of site preparation

Nothing contained herein shall prohibit the excavation of sand, gravel, shale, topsoil or similar material from a lot preparatory to construction of a building for which a building permit has been issued or to move such material from one part of a premises to another part of the same premises when such excavation or removal is clearly incidental to the approved building construction and/or site development and necessary for improving the property for a use permitted in the district in which it is located. Provision shall be made to restore an effective cover crop to any area of land from which topsoil has been removed or covered within the first growing season following the start of such operation.

SECTION 43 - Development within the Greenway Overlay (GRW-O) Zone or near streams, rivers and wetlands

- A. All development within the Greenway Overlay (GRW-O) Zone, as defined by this chapter and mapped by the Federal Emergency Management Agency (FEMA), shall be subject to the special use permit preview and approval as provided by Article VII of this chapter.
- B. In order to preserve the open character along major streams for environmental and ecological reasons, all development proposed within 50 feet of the normal stream bank of the Bunn Creek, Dove Creek, North Chucktanunda Creek or South Chucktanunda Creek, within 100 feet of the high water mark of the Mohawk River, or within 100 feet of the boundary of a freshwater wetland as mapped by the New York State Department of Environmental Conservation, shall be subject to special use permit review and approval as provided by Article VII of this chapter.

SECTION 44 - Swimming pools

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Any swimming pool, as defined within Article II of this chapter, shall be subject to the following requirements:

A. Facilities accepted. This section does not govern portable wading or swimming pools less than twenty four (24) inches in height; provided, however, that all the parts are wholly portable.

B. Permits; fees; application procedures.

1. No person shall construct a private swimming pool without first having obtained a permit from the Building Inspector and having paid a fee commensurate with the estimated cost and the Building Permit Fee Schedule heretofore established by the Common Council of the City of Amsterdam.
2. The term “estimated cost” means the value of all services, excavation, labor, materials, equipment and other devices entering into and necessary for the completion of the work.
3. Application for the construction and maintenance of a private swimming pool shall be made to the Building Inspector by an owner of the property, a registered architect or licensed engineer representing the property owner.
4. The application shall be accompanied by duplicate sets of plans and specifications and plot plans. The plans shall show construction details, whether constructed of masonry materials, pre-cast or prefabricated masonry materials, steel or other combination of materials ensuring structural stability, including complete water supply, drainage, filtration and lighting layouts. The specifications shall describe materials and equipment intended to be used and further augment the plans. The plot plan shall show the entire lot on which the pool is proposed to be constructed, indicating the exact size and shape of the pool and the distance of the pool from all lot lines, pool fencing and screening, existing and contemplated structures and septic tanks and fields, if any.

C. Fencing requirements; notwithstanding Section 41 Fencing and Walls. No swimming pool, as defined in this chapter, shall be installed or maintained unless:

1. There shall be erected and maintained a fence of a minimum height of four feet and a maximum height of six feet; such fence shall be erected from ground level to the heights hereinbefore mentioned and shall be constructed of any suitable material approved by the Building Inspector, and, if constructed of wire mesh, it shall be of a gauge not less than 14 with openings in the mesh of not more than one square inch or of a gauge not less than 11 with openings in the mesh of not more than two square inches.
2. Such fence shall completely surround the area of the swimming pool but shall not be less than three feet from the edge of the swimming pool and shall otherwise comply with the Code of the City of Amsterdam with respect to the erection and maintenance of fences. Any gate in such fence shall be of the self-closing type and locked while the premises are not under the direct supervision of an adult.
3. All latching and locking devices shall be at a minimum height of four feet above the base of the fence.

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4. The Building Inspector may make modifications in individual cases upon showing of good cause with respect to the height, nature or location of the fence, wall, gates or latches or the necessity there for, provided that the protection as sought hereunder is not reduced thereby. In addition, he may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described herein.
- D. Abandonment. Should the owner abandon the pool, he shall arrange to remove the depression and return the surface of the ground to its original grade and approximately in the same condition as before the pool was constructed, and he shall further notify the Building Inspector of the abandonment so that the inspection of the site may be made and the records of the permit be marked accordingly.
- E. Enforcement.
1. The Health Department and/or Building Inspector may inspect or cause to be inspected all swimming pools at such times as it may deem necessary, and in the event that, after due notice, any swimming pool is found to be a hazard to health or safety, the Health Department or Building Inspector may cause a suspension of the use thereof until such time as, in the opinion of the Health Inspector or Building Inspector, it shall no longer constitute a health or safety menace or hazard.
 2. Every swimming pool constructed, installed, established or maintained in the City of Amsterdam shall at all times comply with the requirements of the Commissioner of Health or Building Inspector. Any nuisance or hazard to health or safety which may exist or develop in or in consequence of or in connection with any such private swimming pool shall be abated and removed by the owner, lessee or occupant of the premises on which said pool is located within 10 days of receipt of notice from the Building Inspector or Commissioner of Health of the City of Amsterdam. It shall be the duty of the Building Inspector or the Commissioner of Health, respectively, to enforce the provisions of this section. The Building Inspector and/or Commissioner of Health or any of their assistants or deputies shall have the right to enter any premises or any building or other structure for the performance of their duties to ascertain compliance with this section.
- F. Drainage. Private swimming pools shall be provided with one drainage outlet for drainage of the pool and for backwash water disposal. The drainpipe shall be connected to a storm sewer only or discharge into a catch basin by hose. Upon inspection of the property by the Building Inspector, whose approval may be issued by to discharge the pool water onto the owner's lands, provided that the water does not overflow onto adjoining property or over or into any abutting street or into any sanitary sewer.

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- G. Piping. Installation and materials used to make connections to the water supply and storm sewer shall conform to the requirements of the appropriate code of the City of Amsterdam.
- H. Size and location requirements.
1. No private swimming pool shall have a surface area of water larger than 50% of the rear yard or side yard area from front lot line setback to rear lot line.
 2. No private swimming pool shall be constructed or erected nearer than 10 feet to side or rear lot lines and a similar distance from existing and contemplated structures and a distance no less than the required setback from the front line in the district in which the pool is located. If located within 25 feet of any side or rear lot line, such pool shall be screened by natural vegetation from the view of adjacent properties.
 3. On a corner lot no private swimming pool shall be erected nearer to the street side lot line than the distance required from the front line in the district in which the pool is located.
- I. Compliance by owners of pools in existence. The owner of any land upon which a pool shall be constructed prior to the date of adoption of this chapter shall, within six months after the effective date, comply with the requirements contained herein pertaining to fencing, light, noise abatement and water disposal, except in the event that an existing swimming pool is found to have adequate fences and substantially comply with the provisions hereof and with the protection necessitated, the same should be approved as being in substantial compliance.

SECTION 45 - Home occupation and Home Office

A. Home Occupation

1. In any residential district, Home Occupation as defined in Article II, shall be considered a special permitted use. Permitted home occupations shall conform to the following requirements:
 - a. The profession or other occupation shall be carried on wholly within the dwelling or customary accessory buildings.
 - b. The activity shall not occupy more than twenty five percent (25%) of the gross floor area or four hundred (400) square feet of the dwelling, whichever is greater, or its equivalent if located elsewhere in the dwelling or in a customary accessory structure.
 - c. There shall be no exterior alteration, display or exterior sign except as permitted for residential districts, no exterior storage of materials or equipment and no alteration or variation from the residential character of the dwelling.
 - d. Not more than one person other than resident members of the family residing in such dwelling shall be employed at the same time in connection with such home occupation.
 - e. Except for articles produced on the premises, no retail stock shall be displayed or sold on the premises.

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- f. Sufficient off-street parking shall be provided as required within Section 39 of this chapter.
2. In particular, a home occupation includes but is not limited to the following activities: artist or sculptor studio; dressmaking; handicrafts, musical instruction for up to three pupils (provided no instrument is amplified) or tutoring within a dwelling occupied by the same.
3. However, a home occupation shall not be interpreted to include the following activities: barbershops and beauty parlors; commercial stables and kennels; real estate offices; restaurants; music or singing teacher providing instruction to greater than three pupils at a time; and nursery school as defined in Article II of this chapter.

B. Home Office

- A. In any residential district, a home office shall be considered an accessory use. Permitted home offices shall conform to the following requirements:
 1. The profession or other occupation shall be carried on wholly within the dwelling or customary accessory buildings.
 2. The activity shall not occupy more than 25% of the gross floor area of the dwelling or its equivalent if located elsewhere in the dwelling or in a customary accessory structure.
 3. There shall be no exterior display or exterior signs.
 4. Only resident members of the family residing in such dwelling shall be employed at the same time in connection with such home office.
 5. No retail sales or storage of commodities or merchandise is permitted.
 6. No visits to the home office by customers, clients, patrons and the general public are allowed.
 7. The residence shall maintain its residential character and shall not be altered or remodeled so as to change the residential appearance of the building.
- B. In particular, a home office is limited to the following activities: record keeping, administration of work and computer related work.

SECTION 46 - Mobile homes

No mobile home shall be occupied, stored or parked at any location in the city. Notwithstanding the above, construction trailers may be permitted on active construction sites upon approval of the Building Inspector. Such construction trailers may not be located until a building permit has been issued and shall be removed prior to the issuance of a certificate of occupancy.

SECTION 47 - Storage of Commercial Vehicles, Campers, Recreational Vehicles and Boats on residential lots

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Storage of the following shall occur inconspicuously on that portion of the lot behind the front setback of the dwelling located thereon and shall be not less than 10 feet from the nearest lot line.

- A. No commercial vehicle in excess of 20 feet in length may be stored outdoors on a lot in a residential district.
- B. One camping trailer or recreational vehicle, and one boat may be stored outdoors on a lot in a residential district.

SECTION 48 - Required screening

- 1. Any property with enclosed or unenclosed commercial, warehousing or light industrial uses permitted by this chapter shall provide a fence, screening and/or landscaping sufficient to obscure such use from view from abutting properties in residential districts or from public rights-of-way.
- B. Any use which is not conducted within a completely enclosed building, including but not limited to storage of unregistered vehicles, junkyards, storage yards, lumber and building material yards and parking lots, and which use is in, abuts or is adjacent to a property located in the Gateway Overlay (GT-O) Zone, any residential district or fronts on a public right-of-way shall be obscured from view from such residential districts and public rights-of-way in an effective manner, except for vehicle sales lots which may be visible from the public right-of-way.
- C. Plans and site design for the installation of required fences or landscaping shall be reviewed by the Planning Commission prior to issuance of a building permit or certificate of occupancy for such uses.
- D. Any required fencing or landscaping installed in accordance with this section shall be maintained in good order to achieve the objectives of this section. Failure to maintain fencing and to replace dead or diseased landscaping shall be considered a violation of this chapter.

SECTION 49 - Access through certain residential districts

No business, commercial or light industrial uses, other than existing nonconforming uses, shall gain access from public streets through lands which lie within the most restrictive residence districts (i.e., Zoning Districts LDN and MDN).

SECTION 50 - Alternate-care facilities

- A. All alternate-care facilities, as defined in Article II of this chapter, shall be subject to the special use permit procedure provided by Article VII of this chapter.

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2. Through the application of the special use permit procedure, the city seeks to make needed alternate-care facilities available and conveniently accessible for those persons who are unable to live and work independently at a particular time without unduly disrupting the economic or social balance of the community or unduly impacting its infrastructure and ability to provide services.

SECTION 51 - Adult entertainment.

A. Purpose. The predominant purpose of this section is to regulate uses that, because of their very nature, are recognized as having serious, objectionable operational characteristics and, under certain circumstances, when concentrated in an area, have a deleterious secondary effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that their adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods. This ordinance is required to prevent such deleterious secondary effects. These special regulations are intended to accomplish the primary purpose of preventing a concentration of these uses in anyone area and restricting their accessibility to minors.

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

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides and videotapes and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

ADULT CABARET ESTABLISHMENT — A public or private establishment which presents topless dancers, strippers, male or female impersonators or exotic dancers or other similar entertainments and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

ADULT MOTEL — A motel which is not open to the public generally but excludes minors by reason of age or which makes available to its patrons in their rooms films, slideshows or videotapes, which if presented in a public movie theater would not be open to the public generally but would exclude any minor by reason of age.

ADULT THEATER — A theater that customarily presents motion-picture films, videotapes or slideshows, that are not open to the public generally but exclude any minor by reason of age.

PEEP SHOWS — A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally but excludes any minor by reason of age.

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- C. Regulated adult entertainment. Regulated uses include all adult uses, which include, but are not limited to, the following:
1. Adult bookstore
 2. Adult motion-picture theater
 3. Adult entertainment cabaret
 4. Adult motel
 5. Peep shows
- D. Location Buffering and Restrictions. Adult entertainment establishments shall be permitted subject to the following restrictions:
1. No adult entertainment establishment shall be allowed within 1/2 mile of another existing adult entertainment establishment.
 2. No adult entertainment establishment shall be located within a five-hundred-foot radius of any residential zoning district.
 3. No adult entertainment establishment shall be located within a five-hundred-foot radius of a pre-existing school, library, civic or youth-oriented center, historic preservation site, park or playground or other area where many minors travel or congregate or a place of worship.
 4. No adult entertainment establishment shall be located in any zoning district except Light Industrial District (LI).
 5. No adult entertainment establishment shall be located within a five-hundred-foot radius of the Greenway Overlay Zone (GW-O).
- E. Exterior display prohibited. No adult entertainment establishment shall be conducted in any manner that allows the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult entertainment establishment. This provision shall apply to any display, decoration, sign, window or other opening.

ARTICLE VII, Special Use Permits

SECTION 52 - Issuance

Special use permits, as enumerated in Article IV, Use Regulations, shall be considered and issued by the Planning Commission in accordance with the specific requirements of this article. Such special use permit shall be conditioned upon a separate approval by the Planning Commission, if required, under the site plan review and approval procedure detailed in Article VIII of this chapter.

SECTION 53 - General standards

The following general standards shall apply to all special permit uses:

- A. The use shall be so designed, located and operated to ensure protection of the public health, safety and welfare.
- B. The use shall not cause substantial injury to the economic value of other property in the neighborhood where it is to be located.
- C. The use shall be compatible with other adjoining development and the character of the zoning district where it is to be located.
- D. Adequate landscaping and screening shall be fully provided as required by this chapter.
- E. Adequate off-street parking and loading shall be provided and ingress and egress shall be so designed as to cause minimum interference with traffic on abutting streets.
- F. The use shall conform to all applicable regulations governing the zoning district where it is to be located.

SECTION 54 - Procedure

The Planning Commission shall act in strict accordance with the procedure specified by law and by this chapter in its consideration of special permit uses:

- A. Concurrent review of Special Permitted Uses and Site Plan Review. In order to facilitate and expedite the development process, all Special Use Permit applications shall include a Site Plan Review application as per Article VIII. The Planning Commission shall first take action on the Special Use Permit request and then proceed to
- B. Application and fee. Any application for a special use permit shall be in writing, on a form prescribed by the Planning Commission and shall be accompanied by both the applicable fee in accordance with the fee schedule established and

annually reviewed by the Common Council and by either a short or full Environmental Assessment Form as required by SEQRA, Article 8 of the Environmental Conservation Law and Title 6 Part 617 NYCRR. The Planning Commission will consider only complete applications as determined by the Code Enforcement Officer.

- C. Public notice and hearing. The Planning Commission shall fix a time and place for a public hearing on any such application for special use permit and shall provide public notice thereof in the official newspaper of the city not less than twice, with the initial notice occurring at least five calendar days prior to the public hearing and final notice occurring not more than three calendar days prior to the public hearing. A notice of said public hearing shall be mailed to the owners of all property abutting that held by the applicant and all other owners of property within 200 feet, or such additional distance as the Planning Commission may deem advisable, of the boundaries of the property for which application has been made.
- D. Required referral. A full statement on any application for special use permit that meets the referral requirements of § 239-m of the General Municipal Law shall also be referred to the Montgomery County Planning Board for its review. No action shall be taken by the Planning Commission on such application until an advisory recommendation has been received from the County Planning Board or 30 calendar days have elapsed since the Board received such full statement.
- E. Decisions. Every decision of the Planning Commission shall be accompanied by findings and shall be recorded in accordance with standard forms adopted by the Commission. Every decision shall be by resolution of the Commission, by majority vote thereof, with each such decision being filed in the Office of the City Clerk within 10 calendar days thereof.
- F. Attachment of conditions. The Planning Commission may attach reasonable conditions and safeguards to the issuance of any special use permit in order to ensure that the result of its action shall be as nearly as possible in accordance with the spirit and intent of this chapter.
- G. Expiration of approval. Unless construction or use is commenced and diligently pursued within six calendar months of the date of issuance of the special use permit, such special use permit shall become null and void.

SECTION 55 - Additional requirements for certain special permit uses

The following additional requirements shall govern the particular special permit uses cited in this section:

A. Public Buildings and Public Utility Service Facilities in Residential Districts (LDN, MDN and MRN). Such facilities shall be permitted in the specified residential districts, provided that:

1. All standards of this chapter and other applicable rules and regulations are fully complied with.
2. Such facility is necessary to serve the surrounding residential area where it is not possible to serve such area from a facility located in a Light Industrial District.
3. Such facility shall not be located on a local residential street, unless no other site is available, and shall be so located to draw a minimum of traffic to and through each street.
4. The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.
5. Adequate fences, barriers and other safety devices shall be provided and shall be landscaped as determined appropriate by the Planning Commission.

B. Automobile Service (Minor or Major) or Convenience Stores (as applicable).

1. The minimum lot area shall be 12,500 square feet and the minimum frontage shall be 100 feet.
2. No building shall be erected closer than 20 feet to any street or lot line.
3. Entrance and exit driveways shall have an unrestricted width of not less than 12 feet nor more than 24 feet, nor be located closer than 10 feet to any lot line nor 20 feet to any street intersection.
4. No entrance or exit driveway or parking space shall be located so as to require the backing of any vehicle into the public right-of-way.
5. All vehicle lifts, dismantled automobiles, parts or supplies, goods, materials, refuse, garbage or other debris shall be located within a building enclosed on all sides.
6. All services or repair of motor vehicles shall be conducted in a building enclosed on all sides, not to be construed as meaning that the doors to any repair shop must be kept closed at all times.
7. Gasoline or other flammable fluids in bulk shall be stored fully underground, not closer than 10 feet to any street line or 35 feet to any other lot line.
8. No gasoline pumps shall be located closer than 25 feet to any street line.
9. There shall be at least two paved parking spaces for each service bay plus one additional space for each employee, with no parking area provided closer than 10 feet to any lot line.
10. The overnight, outdoor parking of vehicles shall be prohibited except when such vehicles are both properly registered and undergoing active repair.
11. No establishment shall be located within 200 feet of any school, church, hospital or place of assembly designed for occupancy by more than 50 persons, said distance to be measured in a straight line between the nearest points of each of the lots or premises, regardless of the zoning districts where either premises is located.

C. Off-Street Parking Lot.

1. All off-street parking lots shall comply with the design standards set forth in Section 39(B) of this chapter.
2. If a non-accessory parking lot as provided for in Section 39 of this chapter, the following additional standards shall apply:
 - a. Not less than 30% of the lot area shall be devoted to properly landscaped and maintained open space.
 - b. Spaces provided shall be in the same ownership as the use to which they are accessory or irrevocably leased for not less than 20 calendar years. Said owner or lessees shall maintain the required number of spaces, either throughout the existence of the use to which they are accessory or until such spaces are provided elsewhere, upon approval of the Planning Commission.

D. Mining, excavation and removal of naturally occurring materials in the LI District.

1. Mining and excavation, including loading, hauling and/or processing of sand, gravel, soil, shale, topsoil and any aggregate material, provided that:
 - a. All applicable provisions of the New York State Mined Land Reclamation Law and other applicable state and federal regulations shall be fully complied with.
 - b. A time schedule for completion of either the entire operation or, if excavation is to occur in stages, of each stage of the operation is submitted for approval.
 - c. An operations plan, including the number and types of trucks and other machinery to be used on and off the site, is submitted for approval.
 - d. A restoration and rehabilitation plan showing both existing contours and proposed final contours after operations are completed is submitted for approval.
 - e. A performance bond to assure rehabilitation of the site is posted in an amount satisfactory to the Planning Commission.
 - f. A buffered area of not less than 150 feet is established between the operation and the nearest property line.
 - g. In general, such special use permit shall be restricted to an area not to exceed five acres and to a time period not to exceed two years.
2. All such applications for a special use permit shall be prepared by a licensed professional engineer and shall be accompanied by further documentation, as may be required by the Planning Commission.

E. Landfill or Construction Debris Landfill

1. All required New York State DEC permits and other applicable state and federal regulations shall be fully complied with prior to the issuance of a certificate of occupancy for the project.
2. No Landfill or Construction Debris Landfill may be located within 1000 feet of any residential property.
3. A time schedule, including phasing shall be submitted
4. An operations plan, including the number and types of trucks and other machinery to be used on and off the site, is submitted for approval.

5. A performance bond to assure rehabilitation of the site is posted in an amount satisfactory to the Planning Commission.
6. All such applications for a special use permit shall be prepared by a licensed professional engineer and shall be accompanied by further documentation, as may be required by the Planning Commission.

F. Structure or uses in the Greenway Overlay (GRW-O) Zone. All uses within the Greenway Overlay (GRW-O) Zone shall be reviewed for compliance with the following additional standards, as certified to by a registered architect or licensed professional engineer:

1. All structures shall be designed and anchored to prevent flotation, collapse or lateral movement due to floodwater related forces.
2. All construction materials and utility equipment used shall be resistant to flood damage.
3. Construction practices and methods shall be employed which minimize potential flood damage.
4. All public utilities and facilities shall be located and constructed to minimize or eliminate potential flood damage.
5. Adequate drainage shall be provided to reduce exposure to flood hazards.
6. All water supply and sewage disposal systems shall be designed to minimize or eliminate floodwater infiltration or discharges into the floodwaters.
7. All new residential construction or substantial improvements to residential structures shall have the lowest floor (including basement) elevated to at least two feet above the water level of the one-hundred-year flood.
8. All new non-residential construction or substantial improvements to such non-residential structures shall have the lowest floor (including basement) elevated to at least two feet above the water level of the one-hundred-year-flood or, as an alternative, be flood-proofed up to that same water level, including attendant utility and sanitary facilities.
9. No use shall be permitted, including fill, dredging or excavation activity, unless the applicant has demonstrated that the proposed use, in combination with all other existing and anticipated uses, will not raise the water level of the one-hundred-year-flood more than one foot at any point.

ARTICLE VIII, Site Plan Review and Approval Procedure

SECTION 56 - Site plan required

A site plan shall be required for all non-residential projects in every zoning district and multi-family projects and vacant lot development of single and two family residences. All other single family and two family developments are exempt from Site Plan Review. Site plan reviews are required for all special use permit applications or any change of use or change of legally established non-conforming use permitted by right or special use permit. The Code Enforcement Officer shall refer the applicant to the Planning Commission for site plan review and approval in accordance with the standards and procedures set forth in this article.

SECTION 57 - Sketch plan conference

- A. All applicants seeking site plan review approval shall contact the Code Enforcement Officer to discuss sketch plan requirements and to make arrangements to be placed on the Planning Commission agenda for a sketch plan review.
- B. A sketch plan conference between the Planning Commission and the applicant shall be held to discuss the applicability of the site plan review and approval procedure to the intended development or proposed use for which the building permit or certificate of occupancy or use is sought.
- C. In order to assist the Planning Commission in its determination the applicant shall submit, as may be applicable, the further data discussed below, during the sketch plan discussion. The Planning Commission shall make its determination based upon the following:
 - 1. A review of the project's scope and the basic land use and site design concept, as shown by the sketch plan drawn to scale.
 - 2. Accompanying statements provided by the applicant, which describe at a reasonable level of detail what is proposed.
 - 3. An area map keyed to the real property tax maps, showing the parcel under consideration for site plan review and all surrounding properties,
 - 4. All existing and proposed structures, subdivisions, streets and easements within 200 feet of the boundaries thereof.
- D. At the sketch plan conference, the Planning Commission shall with the advice of its designated consultant take one of three actions:
 - 1. Administratively determine that the project is limited in scope, with compatible land use, site and building design characteristics, thus requiring no further review under this chapter, with such determination restricted to applications, including the establishment of permitted uses within existing complying structures or the

- limited modification of existing conforming uses and complying structures, as determined by the Building Inspector, wherein no substantial site improvements are either required or proposed.
2. Administratively determine that the project does require full review under this chapter, based upon the project's scope and/or land use, site and building design characteristics, and advise the applicant of site plan submission requirements in accordance with the site plan checklist set forth in Section 58.
 3. Require additional sketch plan information prior to making a determination regarding the applicability of the site plan review and approval procedure.

SECTION 58 - Application for site plan approval

A complete application for site plan approval shall be made, in writing, to the Planning Commission and shall be accompanied by four prints of a site plan which includes information drawn from the following checklist of items, as determined necessary by the Planning Commission at the time of the sketch plan conference and which is provided on a drawing certified by a licensed engineer, architect, landscape architect and/or land surveyor, in accordance with the provisions of the New York State Education Law (at the discretion of the planning board):

A. Site plan checklist.

1. Title of drawing, including name and address of applicant and person(s) responsible for preparation of such drawing.
2. North arrow, scale and date.
3. Accurate boundaries of the property plotted to scale, with specific reference as to the source of the boundary data.
4. Existing watercourses, wetlands and 100-year floodplains.
5. Grading and drainage plan, showing existing and proposed contours at an appropriate interval to be specified by the Planning Commission at the sketch plan conference, with two-foot contour intervals and soils data generally required on that portion of any site proposed for development where general site grades exceed 5% or there may be susceptibility to erosion, flooding or ponding.
6. Preliminary drawings showing location, proposed use and height of all buildings, including general floor plans exterior elevations, overall dimensions and design and exterior materials.
7. Location, design and construction materials of all parking and truck-loading areas, with access and egress drives thereto.
8. Provision for pedestrian and handicapped access.
9. Location of outdoor storage for equipment and materials, if any.
10. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
11. Description of the method of stormwater management and location, design and construction materials of such facilities.
12. Description of the method of sewage disposal and location, design and construction materials of such facilities, including location of intended municipal connections.

13. Description of the method of securing water supply and location, design and construction materials of such facilities, including location of intended municipal connections.
14. Location of fire and other emergency zones, including the location of fire hydrants or of the nearest alternative water supply for fire emergencies.
15. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
16. Location, size and design and construction materials of all proposed signage, regulatory and business identification, whether freestanding or building-mounted.
17. Location and proposed development of all buffer and screening areas, including indication of existing vegetative cover and location of proposed natural screening or fencing.
18. Location and design of outdoor lighting facilities, including data regarding, when appropriate, lighting direction and levels, both within the site and at the site's boundaries, if adjacent to residential development.
19. Designation of the amount of building area proposed for retail sales, office use or similar commercial activity.
20. A description of the proposed uses to the extent known, including, for nonresidential occupancies, expected volume of business and type and volume of traffic expected to be generated and projected water demand and sewage load.
21. General landscaping plan and planting schedule.
22. Other elements integral to the proposed development as considered necessary by the Planning Commission, including the identification of any state or county permits required for the project's execution.

B. Required fee. An application for site plan review and approval shall be accompanied by the applicable fee in accordance with the fee schedule established and annually reviewed by the Common Council.

C. Environmental assessment form. An application for site plan review and approval shall also be accompanied by a short or full EAF as required by SEQRA, Article 8 of the Environmental Conservation Law and Title 6 Part 617 NYCRR and as determined by the Planning Commission at the Sketch Plan Conference.

SECTION 59 - Planning commission review of site plan

The Planning Commission's review of a site plan shall include, as appropriate, but is not limited to the following:

A. General considerations:

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, channelization structures and other traffic controls. .

2. Adequacy and arrangement of pedestrian sidewalks, traffic access and circulation, walkways, control of intersections with vehicular traffic and overall pedestrian convenience and safety, including access to public transportation if applicable.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading facilities.
4. Location, arrangement, size, design and general site compatibility to the surrounding area of principal and accessory buildings, lighting and signage.
5. Adequacy of stormwater and drainage facilities.
6. Adequacy of water supply and sewage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-detering buffer between the applicant and adjoining lands, including the maximum retention of existing vegetation.
8. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space of play areas and informal recreation.
9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
10. Adequacy of fire lanes and other emergency zones and water supply for fire emergencies.
11. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion or in the vicinity of wetlands or similar natural features.
12. Compatibility of building design with existing characteristics of the neighborhood.

B. Consultant review. In its review, the Planning Commission may consult with the City Building Inspector, the City Engineer, other city and county officials and its designated private consultants, in addition to representatives of state agencies, including but not limited to the State Department of State, Department of Transportation, the State Health Department and the Department of Environmental Conservation.

C. Public hearing. The Planning Commission shall conduct a public hearing on the application for site plan approval. The public hearing shall be conducted within 45 days of the receipt of the application and shall be advertised in the official newspaper of the city not less than twice, with the initial notice occurring at least five calendar days prior to the public hearing and the final notice occurring not more than three days prior to the public hearing. A notice of said public hearing shall be mailed to the owners of all property abutting that held by the applicant and all other owners of property within 200 feet, or such additional distance as the Planning Commission may deem advisable, of the boundaries of the property for which application has been made.

D. Required referral. Prior to taking action on the site plan, the Planning Commission shall refer the site plan, when applicable, to the Montgomery County Planning Board for advisory review and a report in accordance with § 239-m of the General Municipal Law.

SECTION 60 - Planning Commission action on site plan

Within 45 calendar days of the receipt of an application for site plan approval or within 45 calendar days of the conduct of a public hearing, whichever shall last occur, the Planning Commission shall act on the site plan application.

A. Action by resolution.

1. The Planning Commission shall act by resolution to either approve, disapprove, or approve with modifications to the site plan application. A copy of the resolution shall be filed in the City Clerk's office and mailed to the applicant within 10 calendar days of the Planning Commission's action. A resolution of either approval or approval with modifications shall include authorization to the Planning Commission Chairman to stamp and sign the site plan upon the applicant's compliance with the submission requirements stated below in Subsection B.
2. If the Planning Commission's resolution includes a requirement that modifications be incorporated in the site plan, conformance with said modifications shall be considered a condition of approval. If the site plan is disapproved, the Planning Commission's resolution shall state specific reasons for such decision. In such a case, the Planning Commission may recommend further study of the site plan and resubmission to the Planning Commission after it has been revised or redesigned.

B. Submission requirements for stamping. After receiving site plan approval, with or without modifications, from the Planning Commission, the applicant shall, within six months, submit six prints and one reproducible Mylar of the site plan to the Planning Commission for stamping and signature by the Chairman. The site plan submitted for stamping shall conform strictly to the site plan approved by the Planning Commission except that it shall further incorporate any revisions or other modifications required by the Planning Commission and shall be accompanied by the following additional information:

1. Record of application for and approval status of all necessary permits from federal, state and county officials.
2. Detailed sizing and final material specification of all required improvements.
3. An estimated project construction schedule and, if a performance guarantee is to be provided by the applicant for all or some portion of the work, a detailed site improvements cost estimate.

C. Effect of stamping by Planning Commission. Upon stamping and signature by the Chairman, the Planning Commission shall forward a copy of the approved site plan to the Building Inspector and the applicant. The Code Enforcement Officer may then issue a Building Permit or certificate of occupancy or use if the project conforms to all other applicable requirements, including those stated within the New York State Uniform Fire Prevention and Building Code. The Planning Commission Chairperson

shall simultaneously file a stamped copy of the approved site plan in the office of the City Clerk.

SECTION 61 - Reimbursable costs

Reasonable costs incurred by the Planning Commission for private consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant. Such reimbursable costs shall be in addition to the fee required in Section 58 herein. Maximum amounts for such reimbursable costs by project type and size shall be in accordance with the fee schedule established and annually reviewed by the Common Council.

SECTION 62 - Performance guarantee

No certificate of occupancy or use shall be issued until all improvements shown on the site plan are installed and an as-built drawing submitted to the Code Enforcement Officer or a sufficient performance guarantee has been posted for improvements not yet completed. The amount and sufficiency of such performance guarantee shall be determined by the Planning Commission after consultation with the Corporation Counsel, the Code Enforcement Officer, other local officials or its designated private consultants. The performance guarantee shall be posted in accordance with the procedures specified by law and shall not be released until an as-built drawing has been submitted.

SECTION 63 - Inspection of improvements

The Code Enforcement Officer shall be responsible for the overall inspection of site improvements, including coordination with the Planning Commission's private consultants and other local officials and agencies, as may be appropriate on multi-family residential, institutional, commercial and light industrial projects.

SECTION 64 - Integration of procedures

Whenever the particular circumstances of a proposed development require compliance with either another procedure in this Code, the requirements of the city's land subdivision regulations or the requirements of the State Environmental Quality Review Act, the Planning Commission may integrate, if it deems appropriate, and to the extent of its authority under law, site plan review as required by this chapter with the procedural and or submission requirements for such other compliance. Such integration of procedures may require, upon mutual written consent of the Planning Commission and the applicant, reasonable modification of the time schedules otherwise stated in this chapter or in said related regulations or requirements.

SECTION 65 - Expiration of approval

Unless construction or use is commenced within one calendar year of the date of the granting of site plan approval, such site plan approval shall become null and void.

SECTION 66 - Relief from decisions

Any person or persons jointly or severally aggrieved by any decision of the Planning Commission on a site plan approval application may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be initiated as therein provided within 30 calendar days after the filing of the Commission's decision in the Office of the City Clerk.

ARTICLE IX, Nonconforming Uses and Noncomplying Structures, Uses and Lots

SECTION 67 - Applicability

The provisions of this article shall apply to all structures, uses and lots existing on the effective date of this chapter, to all structures, uses and lots that may become nonconforming or noncomplying by reason of any subsequent amendment to this chapter and the Zoning Map which is a part thereof, and to all complying structures housing nonconforming uses.

SECTION 68 - Continuation of use

Except as otherwise provided in this article, the lawful use of any building, structure or land existing at the time of the adoption of this chapter or any applicable amendment thereto may be continued, although such use does not conform to the provisions of this chapter.

SECTION 69 - Regulation of nonconforming uses

No existing building or structure, whether a noncomplying building or structure or devoted to a nonconforming use, shall be enlarged, extended, reconstructed or structurally altered except as follows:

- A. Restoration. Any non-complying building or structure or building or structure housing a nonconforming use which as a result of fire, explosion or other casualty has less than 50% of its existing floor area made unsafe and/or unusable may be restored, reconstructed or used as before, provided that the bulk, height and area requirements shall not be in excess of that which existed prior to said damage. Such restoration must be commenced within six calendar months and completed within two calendar years of such occurrence or the use of such building, structure or land as a legal nonconforming use shall thereafter be terminated. Abandonment shall only apply to nonconforming uses that were carried on in structures that are architecturally designed to be consistent with a permitted use.
- B. Extension and displacement. A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a noncomplying building or structure, which existed prior to the enactment of this chapter shall not be deemed the extension of such nonconforming use. No nonconforming use shall be extended to displace a conforming use.
- C. Unsafe structures. Any non-complying building or structure or portion thereof or building or structure housing a nonconforming use, declared unsafe by a proper authority, may be restored to a proper condition within the time period provided by such authority.

D. Alterations and repairs.

1. A noncomplying building or structure for other than residential purposes or a building or structure housing a nonconforming use may not be reconstructed or structurally altered during its life to an extent that such alterations exceed in aggregate cost 50% of the full valuation of the building or structure, exclusive of the value of land, unless said building or structure is changed to a conforming use. A nonconforming building or structure containing residential use may be altered in any way to improve interior livability, provided that no structural alteration shall be made which would increase the nonconformity with regard to the number of housing units or the bulk of the building or structure. Within the Greenway Overlay (GRW-O) Zone modifications, alterations and repairs to incorporate flood-proofing measures shall be permitted provided such measures do not raise the water level of the one-hundred-year flood.
2. Normal maintenance repairs and incidental alteration of a noncomplying building or structure containing a nonconforming use shall be permitted, provided that said repairs and alterations do not extend the volume or area of space occupied by the nonconforming use.

E. Change of use.

1. With prior approval of the Zoning Board of Appeals, a nonconforming use of a structure may be changed to another nonconforming use of an equal or more restricted classification, provided that no structural change, enlargement, extension or reconstruction is made.
2. A nonconforming use may be changed into a conforming use.
3. When a nonconforming use is changed to a conforming use or a more restricted nonconforming use, the use of the structure, building or land shall not thereafter be changed into a nonconforming use or a less restricted use.

F. Prior approval. Nothing herein contained shall require any change in the plans, construction or designated use of a building complying with existing laws, a building permit for which had been duly granted before the date of enactment of this chapter or any applicable amendment thereto, provided that said building shall be completed according to such plans as filed within two calendar years from the effective date of this chapter. Further, nothing contained herein shall abrogate any area variance or use variance issued by the Zoning Board of Appeals under Chapter 250, Zoning, of the City of Amsterdam, New York, as superseded by this chapter, provided that:

1. The specific dimensional relief granted through area variance is vested through either incorporation in building plans heretofore filed with the City Building Inspector or which shall be so incorporated within nine calendar months from the effective date of this chapter and related construction is completed in conformance with other applicable laws, rules and regulations within two calendar years from the effective date of this chapter.
2. The specific relief granted through the use variance is vested through initiation of the designated use of a building, buildings and/or land within two calendar years

from the effective date of this chapter, such use or occupancy occurring in conformance with all other applicable laws, rules and regulations.

- G. Relief from the restrictions of this section may be granted by the Planning Commission by special use permit upon application made with notice to all surrounding property owners of the land involved in the special use permit within 200 feet or such additional distances as the Planning Commission may deem advisable. Relief shall be granted if the proposed activity will enhance property value in the area, including the value of the improvement to the nonconforming property, and/or provide increased economic activity that will not significantly burden the surrounding area. In addition, the Planning Commission shall consider the factors set forth in Section 53. However, noncompliance with Section 53 C and/or F alone shall not preclude the granting of a special use permit.

SECTION 70 - Termination or required modification of certain nonconforming uses and non-complying structures

- A. Abandonment. The discontinuance of a nonconforming use for a period of one calendar year and/or the change of use to a more restrictive or conforming use for any period of time shall be considered an abandonment thereof and such nonconforming use shall not thereafter be reestablished. Intent to resume active operations shall not constitute continuance of a nonconforming use nor confer the right to do so.
- B. Partial destruction. Should any non-complying building or structure as a result of fire, explosion or other casualty have 50% or more of its existing floor area destroyed, the use of such building or structure as a noncomplying building or structure shall thereafter be terminated and any new construction shall be in full accordance with the regulations of this chapter.
- C. Termination or required modification of certain uses. Each of the nonconforming structures or uses specified below is deemed sufficiently objectionable, undesirable and out of character in the zoning district in which such use or structure is located as to depreciate the value of the property and uses permitted in the district and otherwise inhibit the proper and orderly development of such district. Therefore, each such nonconforming use or structure must be and shall be terminated on or before the expiration of the specified period of time after the effective date of this chapter. Said period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use.
 - 1. Except in the Light Industrial (LI) District, any nonconforming use of open land, including but not limited to such uses as junkyards, motor vehicle junkyards or open storage yards for material or equipment, may be continued for three years after the effective date of this chapter, provided that, after the expiration of such period, such nonconforming use shall be terminated. As an alternative to termination, continuation of the use, if legally existing, may be authorized by the Planning Commission through application for and approval of a special use

permit in accordance with the procedures and standards established within Article VII of this chapter. Special attention shall be directed by the Planning Commission to the screening requirements set forth in Section 48 of this chapter.

2. Any noncomplying sign, either accessory or non-accessory, including such features as prohibited in Section 40A of this chapter, shall be modified by its owner to conform to be removed within 60 days after receipt by the owner of specific written notice from the Code Enforcement Officer to so comply.
3. Any sign existing on or after the effective date of this chapter which advertises a business no longer conducted or service no longer provided on the premises shall be removed by the owner of the premises upon which the sign is located within 30 calendar days after receiving written notice from the Code Enforcement Officer to remove said obsolete sign.

ARTICLE X, Administration and Enforcement

SECTION 71 - Enforcing official; inspections

- A. The Code Enforcement Officer shall administer and enforce all provisions of this chapter except where otherwise specifically provided herein. Whenever any permit or other approval is required herein, the same shall be applied for and shall be issued in the first instance from the Code Enforcement Officer in accordance with the requirements of this chapter and applicable city regulations governing building construction and the issuance of building permits.
- B. The Code Enforcement Officer and his duly authorized representatives shall have the right to enter upon, examine, inspect or cause to be entered, examined and inspected any building or property at any reasonable time for the purpose of carrying out his duties and to determine compliance with the provisions of this chapter. A written report of each such examination and inspection shall be prepared on an appropriate form and kept on file in the offices of the Code Enforcement Officer.

SECTION 72 - Powers and duties of Code Enforcement Officer

In addition to all other authority conferred by law and within this chapter, the Code Enforcement Officer shall have the following powers and duties with respect to this chapter:

- A. Issuance of building permits. No building or structure shall be erected, altered, reconstructed or enlarged until the Code Enforcement Officer has issued a building permit stating that the proposed use and structure comply fully with all applicable provisions of the chapter. More particularly, no building permit shall be issued for any building where the site plan of such building is subject to approval by the Planning Commission, except in strict conformity with the plans approved by said Commission; and no building permit shall be issued for any special use in any district where such use is subject to approval by the Planning Commission, unless and until such approval has been duly granted by said Commission.
- B. Issuance of certificates of occupancy. No use shall be established on land or structure occupied nor shall any existing use of land or structure be changed until the Code Enforcement Officer has issued a certificate of occupancy stating that the use, land and structure comply with all applicable provisions of this chapter. More particularly, no certificate of occupancy shall be issued for any special use of a building or of land requiring special permit approval by the Planning Commission unless and until such special permit or site plan approval has been granted by the Planning Commission. Every certificate of occupancy for which special permit or site plan approval has been granted or in connection with which a variance has been granted by the Zoning Board of Appeals shall contain a detailed statement of any condition to which the same is subject and include, by attachment, a copy of such Zoning Board of Appeals decision.

- C. Issuance of notices of violation. Whenever, in the opinion of the Code Enforcement Officer, after proper examination and inspection, a violation appears to exist with any provision of this chapter or of any rule or regulation adopted pursuant thereto, he shall serve a written notice upon the appropriate person responsible for such alleged violation. Such notices shall be served in accordance with the requirements of Section 73 herein.
- D. Issuance of stop orders. Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure or any use of land is occurring either in violation of the provisions of this chapter, not in conformity with any application made, permit granted or other approval issued hereunder or in an unsafe or dangerous manner, the Code Enforcement Officer shall promptly notify the appropriate person responsible to suspend the work on any such building or structure or the use of any such land. Such persons shall forthwith suspend such activity until the stop order has been rescinded and shall be served upon the person whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building under construction or premises in use and additionally sending a copy of the same by certified mail.
- E. Emergency action. If in the opinion of the Code Enforcement Officer a violation exists which requires immediate action to avoid a direct hazard or imminent danger to the health, safety, morals or welfare of occupants of a building or to other persons, the Code Enforcement Officer may direct such violation immediately remedied or may take direct action on his own initiative to abate the hazard and danger. Any costs incurred by such action shall be paid for by the owner, occupant or person responsible for the violation. The Code Enforcement Officer shall keep on file an affidavit stating with fairness and accuracy the items of expense and date of execution of action taken and is furthermore authorized to institute a suit, if necessary, against the person liable for such expense or place a lien against property in order to recover said costs.

SECTION 73 - Notice of violations

A notice of violation of any provision of this chapter or of any rule or regulation adopted pursuant thereto shall inform the recipient of:

- A. The nature and specific details of such violation.
- B. Recommended remedial action, which, if taken, will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant thereto.
- C. The date of compliance by which the violation must be remedied or removed.

SECTION 74 - Penalties for offenses

Violation of any provision or requirement of this chapter or violation of any statement, plan application, permit or certificate approved under the provisions of this chapter shall be considered an offense punishable by a fine of not more than \$350 and/or imprisonment

for not more than six months for each such offense. The owner, general agent or contractor of a building premises or part thereof where such a violation has been committed or does exist and any agent, contractor, architect, building, corporation or other person who commits, takes part or assists in such violation shall be liable for such an offense. All such penalties shall be collectible by and in the name of the city; each and every day that any such violation continues after notification that such violation exists shall constitute a separate offense. Such initial notice and subsequent weekly notice shall be given, in writing, by the Building Inspector and shall be served by certified mail or personal service.

- A. Court action. The imposition of penalties herein prescribed shall not preclude the city or any person from instituting appropriate legal action or proceedings to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use or to restrain, correct or abate a violation or to prevent the illegal occupancy of a building, land or premises.
- B. Taxpayer action. If the Code Enforcement Officer fails or refuses to act upon or refer a violation of this chapter to the Corporation Counsel for legal action in accordance with the provisions contained herein within a ten-calendar-day period following written request by any taxpayer to so proceed, then any three or more taxpayers of the City of Amsterdam may institute appropriate legal action in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.
- C. Individual action. Nothing contained herein shall in any way restrict the right of an aggrieved individual to institute an appropriate legal action or proceeding on his own behalf for equitable relief or for damages alleged to have been suffered as a result of the violation of this chapter.

ARTICLE XI, Zoning Board of Appeals

SECTION 75 - Creation, appointment and organization; alternate members

A Zoning Board of Appeals is hereby created in accordance with § 81 of the General City Law. Said Board shall consist of five members, appointed by the Mayor for a term of three years and subject to removal for cause after public hearing. The Mayor shall designate the Chairman of the Board of Appeals, while the Board of Appeals shall designate its Secretary and shall prescribe reasonable rules for the conduct of its affairs. All members of the Board of Appeals shall be residents of the City of Amsterdam and shall continue in office until their successors have been duly appointed and qualified. Pursuant to § 81, Subdivision 11, of the General City Law, the Mayor is empowered to appoint up to three alternate Zoning Board of Appeals member positions, for terms of three years, for the purpose of substituting for a member in the event that such member is unable to participate because of a conflict of interest or in order to conduct a meeting if any of the regular members are not able to attend, with such powers and according to such procedures as are set forth in the General City Law.

SECTION 76 - Powers and duties

The Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows:

- A. Interpretation. On appeal from an order, requirement, decision or determination made by the Code Enforcement Officer or on request by an official, board or agency of the city to decide any of the following questions:
 - 1. Determination of the meaning of any portion of the text of this chapter or any conditions or requirement specified or made under the provisions of this chapter.
 - 2. Determination of the exact location of any district boundary shown on the Zoning Map.

- B. Variances. To authorize, upon appeal in specific cases, such variances from the terms of this chapter as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, there are unnecessary hardships or practical difficulties in the way of carrying out the strict letter of this chapter subject to terms and conditions to be fixed by the Board; provided, however, that no such variance shall be granted unless the Board finds:
 - 1. That there are physical conditions, such as the case of an exceptionally irregular, narrow, shallow or steep lot, fully described in the findings of the Board, applying to the land or building for which the variance is sought, which conditions are to such land or building and have not resulted from any act of the applicant or any predecessor in title.
 - 2. That, for reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of

this chapter would deprive the applicant of the reasonable use of such land or building and the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose.

3. That the granting of the variance under such conditions as the Board may deem necessary or desirable to apply thereto will be in harmony with the general purpose and intent of this chapter, will not represent a radical departure therefrom, will not be injurious to the neighborhood, will not change the character thereof and will not be otherwise detrimental to the public welfare.

SECTION 77 - Procedure

The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law and this chapter.

- A. Meetings. Meetings shall be held at the call of the Chairman or at such other times as the Board of Appeals may determine. A quorum shall consist of three members, but in order to issue an interpretation, reverse a decision of the Code Enforcement Officer or authorize a variance, an affirmative vote of at least four members, as prescribed by General City Law, shall be required. The Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of its examination and other official actions.
- B. Application and fee. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board, and shall be accompanied by the applicable fee in accordance with the fee schedule established and annually reviewed by the Common Council. Every appeal or application shall refer to the specific provision of this chapter that is involved and shall precisely set forth either the interpretation that is claimed or the details of the variance that is applied for and the grounds, which it is claimed that such variance should be granted.
- C. Public notice and hearing. The Board shall fix a time and place for a public hearing on any such appeal of application, and shall provide notice as follows:
 1. By publishing a notice thereof in the official newspaper of the city not less than twice, with the initial notice occurring not less than 10 calendar days prior to the date of the public hearing and the final notice occurring not more than three calendar days prior to the public hearing.
 2. By requiring the Secretary of the Zoning Board of Appeals to give notice at least five calendar days prior to the date thereof of the substance of every appeal for a variance together with a notice of hearing thereon by mailing such to the owners of all property abutting that held by the applicant and all other owners within 200 feet or such additional distances as the Board of Appeals may deem advisable from the boundaries of the land involved in such appeal. Compliance with this notification procedure shall be certified to by the Secretary.
 - a. The names of owners notified shall be taken as such appear on the last completed tax roll of the city.

- b. Provided that there shall have been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Board of Appeals in connection with granting or denying of an appeal for a variance.
 3. By requiring the Secretary of the Board of Appeals to transmit to the Secretary of the Planning Commission a copy of the notice of such hearing at least 20 calendar days prior to the date thereof. The Board of Appeals shall request that the Planning Commission submit to the Board of Appeals an advisory opinion prior to the date of such hearing. Upon failure of the Planning Commission to submit such report, said Commission shall be deemed to have recommended approval of the application or appeal.
 4. If the land involved in the appeal lies within 500 feet of the boundary of any other municipality, the Secretary of the Board of Appeals shall also submit at least 10 calendar days prior to the public hearing to the municipal Clerk of such other municipality or municipalities a copy of the notice of the substance of every appeal together with a copy of the official notice of such public hearing.
- D. Required referral. A full statement of any appeal that meets the referral requirements of § 239-1 and 239-m of the General Municipal Law shall also be referred to the Montgomery County Planning Board for its review. No action shall be taken by the Board of Appeals on such appeal until an advisory recommendation has been received from the County Planning Board or 30 calendar days have elapsed since the Board received such full statement.
- E. Decisions. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision shall be by resolution of the Board, with each such decision being filed in the Office of the City Clerk within 10 calendar days thereof. The Board shall notify the Code Enforcement Officer, the Secretary of the Planning Commission and the municipal Clerk of any affected municipality given notice of hearing of its decision in each case.
- F. Attachment of conditions. In all cases where the Board of Appeals grants a variance from the strict application of the requirements of this chapter, it shall be the duty of such Board to attach conditions and safeguards as may be required in order that the result of its action shall be as nearly as possible in accordance with the spirit and intent of this chapter.
- G. Expiration of approval. Unless construction or use is commenced and diligently pursued within one calendar year from the date of granting of the variance, such variance shall not become vested and shall be considered null and void without further hearing or action by the Zoning Board of Appeals. Upon specific application, in writing, by the owner of the affected property prior to the date of such expiration,

the Zoning Board of Appeals may, however, extend, in its discretion, the expiration date for a maximum of two periods, not to exceed six calendar months each, provided that the circumstances and facts relied upon in the granting of the variance have not materially changed.

- H. Strict construction. All the provisions of this chapter relating to the Board of Appeals shall be strictly construed. The Board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this chapter and in strict compliance with all limitations contained therein; provided, however, that if the procedural requirements set forth in this chapter have been substantially observed no applicant or appellant shall be deprived of the right of application or appeal.

SECTION 78 - Effect of appeal

An appeal stays all proceedings in furtherance of the action appealed from unless the Code Enforcement Officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him that by reason of acts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice of the officer from whom the appeal is taken and on due cause shown.

SECTION 79 - Relief from decisions

Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be initiated as therein provided within 30 calendar days after the filing of the Board's decision in the Office of the City Clerk.

ARTICLE XII, Amendment Procedure

SECTION 80 - Amendment of provisions

This chapter or any part thereof, including the Zoning District Map indicating the various district boundaries, may from time to time be amended, supplemented, changed, modified or repealed by the Common Council in the manner provided by § 20 and 83 of the General City Law. Every proposed amendment or change shall be referred by the Common Council to the Planning Commission for its review and recommendation pursuant to the specific provisions of this chapter.

SECTION 81 - Report of the Planning Commission

In undertaking such review and making such recommendation on a proposed amendment the Planning Commission shall make inquiry and determination concerning the items specified below:

- A. Concerning a proposed amendment or change in the text of the chapter:
 - 1. Whether such change is consistent with the purposes embodied in this chapter as applied to the particular district concerned.
 - 2. Which areas and establishments in the city will be directly affected by such change and in what way will they be affected.
 - 3. The indirect implications of such change in its effect on other regulations.
 - 4. Whether such proposed amendment is consistent with the underlying objectives of the City's Master Plan.

- B. Concerning a proposed amendment involving a change in the Zoning Map:
 - 1. Whether the uses permitted by the proposed change would be appropriate in the area concerned.
 - 2. Whether adequate public school facilities and other public services exist or can be created to serve the needs of any additional residences likely to be constructed as a result of such a change.
 - 3. Whether the proposed change is in accord with any existing or proposed plans in the vicinity.
 - 4. The effect of the proposed amendment upon the development of the city as foreseen by the City's Master Plan.
 - 5. Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the city and the probable effect thereof.

SECTION 82 - Common Council procedure

- A. Public notice and hearing. The Common Council by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as follows in accordance with the General City Law:

1. By publishing notice in the official newspaper of the city not less than twice, with the initial notice occurring at least 10 calendar days prior to the public hearing and the final notice occurring not more than three calendar days prior to the public hearing, with the notice specifying:
 - a. The nature of the proposed amendment.
 - b. The land or district affected.
 - c. The date, time and place where the public hearing shall take place.
 2. By providing a copy of such notice of any proposed change or amendment affecting property within 500 feet of any other municipality to the Clerk of such municipality at least 10 calendar days prior to the date of such public hearing.
 3. In the case of an amendment to the Zoning Map, all owners of property within the area to be affected by said amendment and all owners of property within 200 feet, or such additional distance as the Common Council may deem advisable, of the boundaries of said area shall be mailed a notice of any public hearing to be held concerning the adoption of said amendment.
- B. Mandatory referral. The Common Council shall transmit a full statement of any proposed amendment that meets the referral requirements of § 239-1 and § 239-m of the General Municipal Law to the Montgomery County Planning Board for its review. No action shall be taken by the Common Council on such proposed amendment until a recommendation has been received from the County Planning Board or 30 calendar days have elapsed since the Board received such full statement.
- C. Action. The Common Council may approve any such proposed amendment by a majority vote of said Council, except that:
1. A favorable vote of least four members of the Common Council, a majority plus one, shall be required if the action being taken is contrary to the recommendation received from the Montgomery County Planning Board under the provisions of § 239-1 and § 239-m of the General Municipal Law.
 2. A favorable vote of at least four members of the Common Council, three-fourths vote, shall be required if a protest against such amendment has been signed by the owners of at least 20% of the land area included in such proposed change or of that immediately adjacent extending 100 feet therefrom or that directly opposite.

ARTICLE XIII, Interpretation and Application

SECTION 83 - Interpretation; conflict with other laws

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements, as adopted for the protection of the public health, safety and general welfare. Whenever the requirements of this chapter are in conflict with the requirements of any other lawfully adopted rules, regulations, ordinances or chapters, the more restrictive provisions, or those imposing the higher standards, shall govern.