

§103-26. Site Development Regulations

Site plan decisions have a lasting effect on the character and function of a community. To protect the health, safety, and general welfare of the City of North Tonawanda and its citizens, regulations for site development are needed. The regulations contained in this section shall be considered minimum standards in addition to all other provisions of the zoning code and shall apply to all new and modified existing public and private development whenever a permit is required.

Whenever the requirements of this ordinance conflict with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

Exemptions to §103-26 Site Development Regulations: All modifications to an existing structure that do not exceed one-thousand (1,000) square feet in size or \$50,000 in total cost.

For new and existing detached single-family and duplex dwellings (this does not include condominium-style developments such as patio homes, etc), only the following shall apply:

- (1) All topsoil cleared for construction shall remain on site and be protected from wind, water, erosion, etc and be re-used for landscaping, to a minimum depth of six (6) inches after compaction. Clean, friable and weed-free topsoil shall be obtained off-site if topsoil on-site is not sufficient for minimum depth requirement.*

A. Purpose of site development regulations. The purpose and intent of the site development regulations are to:

- (1) Provide for high-quality, well-planned and well-maintained development in the City of North Tonawanda,**
- (2) Protect and promote the health, safety and general welfare of the public,**
- (3) Enhance the aesthetic and visual character of the city while promoting pedestrian activity,**

- (4) Establish minimum standards and criteria for site development of new single- and multi-family residential and all non-residential development, to dissuade the unnecessary clearing and disturbing of land so as to preserve the natural and existing growth of flora and to replace removed flora, or plant new flora indigenous to the Western New York region,**
 - (5) Reduce the effects of wind and air turbulence, heat, noise and light,**
 - (6) Conserve and stabilize property values and to otherwise facilitate the creation of a convenient, attractive and harmonious community,**
 - (7) Create attractive buffers between street rights-of-way and property lines, thus promoting a healthy and attractive environment,**
 - (8) Provide shade, prevent soil erosion, and create appealing parking areas.**
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:**
- (1) Caliper – the diameter of a tree trunk as measured at a person’s chest height.**
 - (2) Disturbance – Any event or series of events that disrupts the ecosystem, community or population structure, or alters the physical environment.**
 - (3) Erosion – The wearing away of land surface by wind, ice or water, intensified by land-clearing practices related to farming, residential or industrial development, road building, or logging.**
 - (4) Irrigation – To apply water to land so that plants will grow or grow stronger.**
 - (5) Landscaped Area – the area required or permitted to be devoted to landscaping and environmental improvement, which may include existing and new vegetation.**
 - (6) Light Pollution – presence of excessive illumination in locations where it is not desired; excess or obtrusive light.**
 - (7) Outdoor Light Fixture – includes outdoor artificial illuminating devices, lamps, and other devices, permanent or portable, used for illumination or advertisement, including but not limited to search, spot or flood lights for buildings and structures, recreational areas, parking lot lighting, landscape lighting, billboards and other signage and street lighting.**

- (8) Parking Area** – the off-street parking area and loading and unloading area required by the appropriate sections of the zoning ordinance.
 - (9) Shielded** – Lighting fixtures are shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.
 - (10) Site** – Contiguous or detached parcels of land to be developed.
 - (11) Stormwater** – Stormwater runoff, snow melt runoff, and surface runoff and drainage; rainfall that does not infiltrate the ground or evaporate because of impervious land surfaces but instead flows onto adjacent land or watercourses or is routed into drain/sewer systems.
 - (12) Wetlands** – areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas but are not always visibly wet.
- C. A landscape plan shall be submitted pursuant to the following provisions and must be approved by the Planning Board prior to site plan approval:**
- (1) General Requirements.** The following shall apply to all landscape plans:
 - (a)** All development subject to the provisions of this section shall provide for a landscaped or natural area, which is not less than twenty-five percent (25%) of the property area,
 - (b)** Landscape treatments shall be designed as an integral part of the entire development and shall be distributed throughout the development site,
 - (c)** Vegetation shall be compatible with soil conditions on the development site and with the regional climate. Existing vegetation may remain on site provided such species are approved by the Planning Board when granting approval of the landscape plan,
 - (d)** Each planting area shall be of adequate size for the landscaping approved. The interior dimensions of any landscaped area or median shall be a minimum of seven (7) feet wide to ensure proper growth of vegetation planted therein,
 - (e)** All landscaped areas shall have adequate irrigation and drainage for that landscaping to ensure proper growth of vegetation,
 - (f)** Landscaped areas in or near parking areas or roadways shall be bordered with approved concrete curbing or swales,
 - (g)** All landscaped areas shall contain clean, friable, weed-free topsoil to depths necessary to sustain growth for trees, shrubs and

groundcover. In addition, all landscaped areas shall contain two (2) inches of wood mulch. Permeable interlocking pavers or decomposed granite may also be utilized in heavily trafficked areas,

- (h) Trees are the preferred form of vegetation and every effort shall be made to preserve existing site trees, particularly existing trees with a caliper larger than ten (10) inches (see Section 103-26, Part D. (2)). Each Landscape Plan must contain at least one tree per one-thousand (1,000) square feet of landscaped area,
- (i) Each Landscape Plan shall contain the following varieties of trees:
 - Fifty percent (50%) large deciduous trees,
 - Twenty-five percent (25%) evergreen trees,
 - Twenty-five percent (25%) small or flowering trees,
- (j) Not less than five percent (5%) of the interior of a parking area designed for ten to twenty-five (10 to 25) cars shall be devoted to landscaped areas. Not less than ten percent (10%) of the interior of a parking area designed for twenty-five (25) cars or more shall be devoted to landscaped areas. Interior parking lot landscaping shall be considered as part of the twenty-five percent (25%) minimum landscaping requirement,
- (k) Trees planted in a tree well or planter strip shall be provided with a minimum 7-foot by 7-foot planting area. Trees planted in an island planter shall be provided with a minimum 4-foot by 8-foot planting area. Planter dimensions are measured from the interior side of the curb. Trees must be planted behind the curb at a distance no less than one half the minimum planter width,
- (l) All paved surfaces are subject to shading requirements. Shade shall be provided to at least thirty percent (30%) of all parking areas, walkways, pedestrian access, etc within fifteen (15) years of planting. The Landscape Plan shall clearly show trees drawn to scale representing the canopy size at fifteen (15) years. Shading shall be calculated by using the diameter of the tree crown at fifteen (15) years. Areas where canopies overlap shall not be counted twice. *Exemptions: (i) truck loading area in front of overhead doors, (ii) truck maneuvering and parking areas unconnected to and exclusive of any vehicle parking,*
- (m) A landscaped area at least ten (10) feet in depth shall be provided along all exterior lot lines of parking areas unless a greater landscaped area is required according to the provisions of the given zoning district,
- (n) All non-residential development located adjacent to residential districts shall provide screening and/or buffering using landscaping. Such screening and/or buffering shall be designed so that a person standing on the adjacent residential parcel on the minimum setback line, five (5) feet above the finished grade, would not be able to observe any uses, activities or automobile lights

originating from said non-residential areas. This standard may be met by using various techniques such as plant materials, earthen berms or combinations thereof as approved by the Planning Board. Vegetation shall be the preferred screening device. Such techniques can be applied within the required side and rear yards,

- (o) Landscaping shall provide privacy and screening for adjacent land uses, and shall take into account visual, noise and air quality factors. More stringent standards may be required by the Planning Board, particularly for industrial development, to ensure adjacent properties are provided adequate visual and noise screening,
- (p) All dumpsters shall be hidden from view from adjacent properties by closed fencing and vegetation. The screening of materials stored outdoors may be required by the Planning Board.

(2) Landscaping specifications.

- (a) Any and all plantings shall follow all requirements of the Code of the City of North Tonawanda,
- (b) Tree and shrub size and variety shall be outlined on the landscape plan, and shall be large enough to establish an aesthetically pleasing effect. Minimum tree and shrub sizes at planting shall be:

<u>Plant type</u>	<u>Minimum Size</u>
Large Deciduous Trees (diameter)	2-inch caliper
Conifers	5 foot height
Small or Flowering Trees	1 ½ inch caliper
Large Shrubs	30 to 36 inch height
Small Shrubs	18 to 24 inch height

- (c) Specific species of all vegetation shall be outlined on the landscape plan and approved by the Planning Board,
- (d) Native vegetation is preferred and shall be used for plantings whenever possible. All landscaping, exclusive of trees, shall contain a minimum of twenty-five percent (25%) species native to Northeastern United States,
- (e) Non-living materials shall not be substituted for the required landscaping.

- (3) For tree planting requirements, exclusive of those within rights-of-way, a minimum of thirty percent (30%) species native to Northeastern United States shall be required.

For placement of trees within rights-of-way refer to Chapter 91 (Trees) of the Code of the City of North Tonawanda. Trees used to meet

landscaping requirements within rights-of-way shall be selected from the prepared street list available from the City of North Tonawanda Department of Parks and Recreation titled "Street Trees for Planting in North Tonawanda, Specimen Options."

The Planning Board shall have the discretion to modify tree shading requirements under power lines and other obstructions which prohibit strict compliance with shading requirements.

- (4) New development shall be required to have landscaping in place and completed prior to final certificate of occupancy.

In the event that seasonal conditions prevent completion of the required landscaping until the following planting season, the Planning Board shall set a completion date, and the property owner or developer shall post a certified check in the amount of fifty percent (50%) of the cost of the landscaping as verified in writing by the landscape architect or by the licensed professional that sealed the landscape plan. Said certified check shall be made payable to the North Tonawanda City Clerk and shall be redeemable after completion and approval of said landscaping work by the stated completion date. In the event that the landscaping plan is not completed by the prescribed date, the owner or developer shall forfeit the deposited amount, and the city shall find the site in violation of this code until landscaping is completed as originally approved.

- (5) Prior to final approval of the site plan, the property owner or developer shall enter into an agreement with the City of North Tonawanda to assure completed plantings. An irrevocable letter of credit, bond, or other surety shall be required to guarantee maintenance of approved landscaping for a period of three (3) years from planting. If the approved landscape plan is not followed during this time, the surety or bond shall be forfeited and shall be used to complete the landscape plan as approved. Prior to the release of the bond and upon notification by the property owner or developer of completion, the site shall be inspected by the Building Inspector or Code Enforcement Officer.

- (6) All landscaped areas required and/or permitted by this section shall be maintained and preserved according to the landscape plan as originally approved or as amended by the Planning Board. The property owner shall be responsible for the continued proper maintenance of all landscape materials and shall keep them in a proper neat and orderly appearance, free from refuse and debris at all times. Proper maintenance shall include at a minimum: watering, weeding, mowing, mulching, fertilizing and pruning. All unhealthy or dead plant material shall be replaced within six months or by the next planting season.

D. Minimize site disturbance during construction. To conserve existing natural areas, protect trees, and provide habitat to promote biodiversity, the following requirements shall be conformed to:

- (1) Limit site disturbance, including earthwork and clearing of vegetation, to forty (40) feet beyond the building footprint, five (5) feet beyond primary roadway curbs, walkways and main utility trenches, and twenty-five (25) feet beyond constructed areas with permeable surfaces (such as pervious paving areas, stormwater detention facilities and playing fields) that require additional staging areas in order to limit compaction in the constructed area,**
- (2) Locate and identify on the Landscape Plan all existing trees with a caliper larger than eight (8) inches and preserve a minimum of fifty percent (50%) of these identified large caliper trees,**
- (3) All topsoil cleared for construction shall remain on site and be protected from wind, water, erosion, etc and be re-used for landscaping, to a minimum depth of six (6) inches after compaction. Clean, friable and weed-free topsoil shall be obtained off-site if topsoil on-site is not sufficient for minimum depth requirement.**

E. Erosion and sedimentation control. In order to reduce water pollution and prevent erosion during construction the following requirements have been adopted:

- (1) Design a site-specific sediment and erosion control plan, which conforms to all current state and federal standards and regulations. Additionally, the plan shall meet the following objectives:**
 - (a) Prevent loss of soil during construction by stormwater runoff and/or wind erosion, especially protecting topsoil that has been stockpiled for reuse,**
 - (b) Prevent sedimentation of storm sewers or receiving streams,**
 - (c) Prevent polluting the air with dust and particulate matter.**
- (2) Illustrate in construction documents how erosion control requirements will be met for the overall project as well as for each individual building and development phase.**

F. Maintain stormwater post-project runoff rates in accordance with all current state and federal standards and regulations. Drainage calculations shall be submitted to the Planning Board for review as part of the site plan approval process.

- G. To maintain natural aesthetics and protect flora, fauna and wetlands, refer to State and Federal regulatory agencies such as the New York State Department of Environmental Conservation and the United States Army Corps of Engineers regarding wetlands regulations. In addition, the following requirements shall be adhered to:**

Improve the function of existing on-site wetlands or water bodies through the restoration of hydrology, planting native species, removal of exotic species, and/or other measures as determined appropriate by the Planning Board.

- H. To promote alternative means of transportation, each commercial, industrial and public building shall be required to provide racks for a number of bicycles equivalent to five percent (5%) of the number of parking spaces, with a maximum of ten (10) bicycle spaces.**
- I. To minimize light pollution and light trespass for the enjoyment and use of property and the night environment and to conserve energy while increasing nighttime visibility, security and productivity, the following requirements shall apply to all outdoor lighting devices used for illumination or advertisement:**
- (1) Except as otherwise provided in this section, all lighting devices or fixtures shall be shielded in such a manner that light rays emitted by the device or fixture, whether directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.**
 - (2) Requirements for lighting device or fixture heights, shielding, placement and aiming to minimize light trespass and direct glare emitted by a lighting system shall be as follows:**
 - (a) The maximum allowable height of wall-mounted lighting devices or fixtures shall be equal to the horizontal distance of the fixture to the property line with a maximum height of fifteen (15) feet,**
 - (b) Direct illumination from lighting devices or fixtures shall not be visible from six (6) feet above grade at the property line.**
 - (3) The use of flashing, rotating or pulsating lights in/on any outdoors sign or other lighting device is prohibited. This provision shall not apply to flashing, rotating or pulsating lights intended to warn of hazards and danger.**
 - (4) The operation of searchlights for advertising purposes is prohibited.**

(5) Off-street lighting shall be shielded and/or directed in such manner that it only illuminates the user's premises and does not spill over into neighboring areas or interfere with use of residential properties.

(6) Exemptions:

- (a) The provisions of this chapter do not apply to incandescent lamps of one hundred fifty (150) watts or less; glass tubes filled with neon, argon or krypton; outdoor advertising signs constructed of translucent material and wholly illuminated from within and fossil fuel light sources,**
- (b) The illumination of outdoor recreational facilities, public or private, shall be shielded such that the glare or beam does not emit beyond property lines, and no such facility shall be illuminated after 11:00 pm except to conclude a specific sporting event or any other activity conducted at a ball park, outdoor amphitheater, arena or similar facility in progress prior to 11:00 pm,**
- (c) Seasonal holiday displays,**
- (d) Displays of the American flag,**
- (e) The Planning Board may grant a special exemption upon a written finding that there are extreme geographic or geometric conditions warranting the exemption and that there are no conforming fixtures that would suffice.**

J. Required Submittals to the Planning Board:

(1) An Existing Site Survey prepared by a licensed New York State Land Surveyor shall accurately display, to scale:

- (a) Current property lines, rights-of-way and easements,**
- (b) All existing vegetation and natural features, including but not limited to streams and state and/or federal wetlands,**
- (c) Existing buildings, structures and all non-natural features,**
- (d) Existing grades and contours.**

(2) Geotechnical Report, including:

- (a) Soil profile and bearing capacity,**
- (b) Foundation recommendations,**
- (c) Depth to bedrock.**

(3) Proposed Site Plan, including:

- (a) Clearly dimensioned setbacks from property lines, easements, wetlands, rights-of-way, etc,**
- (b) Parking requirements and quantities,**

- (c) **Traffic flow patterns, including pedestrian, within-site and at points of entry and exit to site,**
- (d) **Proposed grades and contours,**
- (e) **Proposed site storm drainage,**
- (f) **Lighting,**
- (g) **Signage.**

(4) Landscape Plan:

- (a) **The Landscape Plan shall be drawn to scale, including dimensions and distances, and shall clearly delineate existing and proposed structures, uses, parking areas, access aisles, drainage pattern and the location, size and description of all landscape materials existing and proposed, including but not limited to all trees and shrubs, and shall include those existing plant materials that are to be removed and such other information as may be required by the Building Inspector and the Planning Board,**
- (b) **The Landscape Plan shall clearly show all existing and anticipated changes to vegetation and natural features, including but not limited to streams, state wetlands and federal wetlands. Natural features shall be preserved and incorporated in the landscaped area wherever possible. Existing vegetation and natural features may be counted toward the twenty-five percent (25%) landscape requirement,**
- (c) **Landscape plans shall be prepared and certified by a New York State licensed professional,**
- (d) **In the event that wetlands exist on site, a copy of the Letter of Notification sent to the New York State Department of Environmental Conservation and/or the United States Army Corps of Engineers must accompany the Landscape Plan.**

(5) Elevation Drawings:

- (a) **Building elevations and architectural elements as they relate to adjacent buildings and/or structures,**
- (b) **Indicate finishes, colors, etc,**
- (c) **Indicate grade,**
- (d) **Lighting,**
- (e) **Signage.**

(6) State and Federal Documents:

- (a) New York State Stormwater Pollution Prevention Plan (SWPPP),**
- (b) Environmental Assessment Form (EAF),**
- (c) New York State Environmental Quality Review (SEQR),
declaration, and Environmental Impact Statement (EIS),**
- (d) New York State Pollution Discharge Elimination System (SPDES),**
- (e) All other state and federal permits.**

K. Violations and Penalties

Failure to complete all site plan improvements submitted to and approved by the Planning Board shall constitute a violation of this ordinance. Inspection of site plan improvements shall coincide with the final construction inspection performed by the Building Department. Determination of incomplete site improvements at final inspection shall require an addition of two hundred fifty dollars (\$250.00) to the Building Permit Fee for the purpose of reinspection for completion.

Any person violating any of the provisions of this ordinance shall be subject to a fee of two hundred and fifty dollars (\$250.00). A violation shall be deemed to occur for each day that the permit holder fails to conform to the provisions of this ordinance.

The Building Inspector or Code Enforcement Officer are hereby charged and designated with the duty of supervision and enforcement of the Site Development Regulations defined in Chapter 103 Section 26 of the Code of the City of North