

**§ 103-21. Repealer.**

The Zoning Ordinance of the City of North Tonawanda enacted by the Common Council December 19, 1927, as the same from time to time has been amended, is hereby reenacted and amended in its entirety as herein set forth, superseding all previous enactments and amendments, and, from its taking effect, all such previous enactments and amendments thereto shall be repealed. Such repeal shall not affect or impair any act done, offense committed or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such repeal had not been effected.

**§ 103-22. Validity.**

If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared by any court of competent jurisdiction to be invalid, such invalidity shall not affect any other portion of this ordinance. The Common Council hereby declares that it would have adopted every section, subsection, paragraph, sentence, clause and phrase of this ordinance regardless of the fact that any other section, subsection, paragraph, sentence, clause or phrase be declared invalid.

**§ 103-23. Effective date.**

This ordinance shall take effect as prescribed by law, which is one week after publication.

**§ 103-24. Townhouse development regulations. [Added 3-21-89]**

In accordance with § 103-6A(10), 103-7A(1) and 103-8A(8) herein and subject to the requirements specified below and in § 103-18B(4) of this chapter, including site plan approval by the Planning Commission, the Board of Appeals may approve proposals for a special use permit for the construction of

townhouse clusters and developments in the R1-1, R1-2 and R-2 Residential Districts.

A. General requirements. The following general requirements and standards shall govern the review and approval of site plans for townhouse clusters or developments:

- (1) Each townhouse dwelling unit shall be located, constructed and served by public facilities and services and utilities in such fashion that each dwelling unit may be sold individually.
- (2) Each individual dwelling unit in a townhouse cluster shall be separated from other such dwelling units by a fire wall. Such fire wall shall be of masonry construction, shall extend from the foundation to the roof and shall be unpierced.
- (3) Natural features, including streams, drainageways and existing trees, shall be preserved and incorporated in the landscaping of the development.
- (4) All utility lines which provide electric, gas, telephone, television or other similar services shall be installed underground. Surface-mounted equipment shall be located in a manner so as to minimize potential conflict with other uses and activities.
- (5) Plans submitted for townhouse developments shall identify areas proposed for dedication to the city, areas to be held in common ownership and property to be owned by individuals.
- (6) Common property shall, except when accepted by the City Council for dedication, be privately owned. Where property is to remain in common ownership, the developer shall provide for and establish an organization for the ownership and maintenance of such common property. Rules and regulations proposed to govern the operation and maintenance of

all common property shall be submitted for review and approval by the City Council. Common property shall not be changed from its status or use as common property without specific authorization of the Council. In reviewing proposals for the establishment of organizations to govern the ownership and maintenance of any common property, the Council shall consider and determine the adequacy of:

- (a) The timetable for the creation of the organization.
- (b) The requirements for membership in the organization by residents.
- (c) The safeguards to ensure the continuance of the common property as common property.
- (d) The liability of the organization for insurance, taxes and maintenance of all facilities.
- (e) The provision for pro rata sharing of costs and assessments.
- (f) The financial capacity of the organization to maintain and administer common facilities.
- (g) The proposed relationship between the developer and the organization and the plan to turn over the responsibility for the maintenance and administration of common facilities to the organization.

B. Minimum standards for townhouse clusters or developments.

- (1) Area. The minimum tract area for townhouse clusters, or developments shall be:
  - (a) R1-1 District: minimum tract of land, five acres.

- (b) R1-2 District: minimum tract of land, four acres.
  - (c) R-2 District: minimum tract of land, three acres.
- (2) Densities. The maximum densities of residential development per gross acre of land (including roadways, pedestrian walkways, common recreation areas, open areas and all nonresidential areas) for townhouse clusters and developments shall be as follows:
  - (a) Within the R1-1 District one townhouse dwelling unit per 8,400 square feet of land.
  - (b) Within the R1-2 District one townhouse dwelling unit per 7,200 square feet of land.
  - (c) Within the R-2 District: one townhouse dwelling unit per 5,000 square feet of land.
- (3) Open space. Not less than 25% of the land area within a townhouse cluster or development, excluding parking areas and vehicle access facilities, shall be developed and maintained as open space for the use and enjoyment of residents of said cluster or development and their guests.
- (4) Lot coverage. The lot coverage of all buildings and structures within a townhouse cluster or development shall not exceed 25% of the area of the tract.
- (5) Building height. No townhouse building shall exceed 30 feet in height.
- (6) Distance between buildings. The minimum distance between a townhouse dwelling building and any other structure, including a swimming pool, shall not be less than 25 feet.

- (7) Setbacks. No minimum front, side or rear setbacks shall be required except when dwelling units are positioned relative to a public street. Where a structure faces or abuts a public street, no part of the structure shall be located closer than 35 feet to the public right-of-way. No structure shall be set back less than 10 feet from any common parking area.
- (8) Setbacks from other districts. No structure within a townhouse cluster or development shall be located closer than 30 feet to the boundary line of any zone district.

C. Building standards.

- (1) No more than eight townhouse dwelling units shall be included in a single dwelling building.
- (2) No building shall exceed a maximum length of 240 feet on any exterior facade.
- (3) Townhouse dwelling buildings shall be related to one another in design, building mass, materials and placement to provide a visually and physically integrated development.
- (4) The treatment of the sides and rear facades of all buildings in a development shall be comparable in amenity and appearance to the treatment of any building facade which faces a public street and complimentary in architectural design to adjacent residential structures.
- (5) Building walls shall be oriented so as to ensure adequate exposure of light and air to each dwelling unit and to the rooms within.
- (6) Buildings shall be arranged so as to preserve visual and audible privacy between each townhouse dwelling unit and adjacent townhouse buildings.

- (7) Building entranceways of adjacent dwelling units in the same structure shall be designed to ensure the privacy of occupants. This may be accomplished by varying the setbacks of entranceways or by providing screening or landscaped plantings, as appropriate.
- (8) Building entranceways shall be provided with appropriate illumination for the convenience and safety of residents. Such lighting shall be shielded to avoid glare disturbing other properties.
- (9) All townhouse dwelling units shall include ground-floor living space. The location of an enclosed garage shall not qualify as meeting this requirement.

D. Townhouse parking standards.

- (1) No less than two off-street parking spaces shall be provided for each townhouse dwelling unit.
- (2) No less than one of the two off-street parking spaces required shall be wholly enclosed and located on the residential property the parking space is designed to serve.
- (3) The developer may meet the requirements for off-street parking by providing parking spaces in an enclosed garage plus any combination of spaces on private driveways and/or in a common parking lot.
- (4) No common off-street parking lot or outdoor storage area shall be located closer than 25 feet to any adjacent property.
- (5) All off-street parking areas shall be privately owned and maintained.
- (6) Common off-street parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and the monotony of parked cars.

- (7) Common off-street parking areas shall be designed with careful regard to orderly arrangement, topography, landscaping, ease of access and shall be developed as an integral part of the overall site plan.
  - (8) Common off-street parking areas shall be provided with suitable lighting for the convenience and security of residents, but positioned and shielded to minimize glare and potential inconvenience to residents of the townhouse cluster or development and adjacent properties.
- E. Size of townhouse dwelling units. The minimum total habitable floor area for all dwelling units shall be:
- (1) In the R1-1 District, 900 square feet, exclusive of garage space.
  - (2) In the R1-2 and R-2 Districts, 800 square feet, exclusive of garage space.
- F. Landscape site design standards.
- (1) Landscaping shall be provided along and adjacent to all streets, common driveway areas and common off-street parking areas. Landscaping treatments shall be designed, coordinated and installed in accordance with the site plan approved by the Planning Commission.
  - (2) Landscape treatment shall consist of shrubs, ground cover and street trees and shall be designed and installed to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the local environment.
  - (3) Whenever possible, existing trees shall be conserved and integrated into the landscape design plan.
  - (4) All landscaping, except for trees, shrubs and grasses, either existing or to be installed within the public

right-of-way, shall be privately owned and maintained.

G. Site circulation system design standards.

- (1) An adequate, safe and convenient circulation system shall be provided.
- (2) The arrangement of streets and common parking areas shall be designed as integral parts of an overall site plan. These features shall be properly related to existing and proposed buildings and appropriately landscaped.

H. Miscellaneous townhouse regulations.

- (1) No home occupations and no business activities of any type shall be permitted within a townhouse cluster or development.
- (2) No signs shall be permitted in a townhouse cluster or development except for a single illuminated nonflashing nameplate sign not more than two square feet in area attached to the townhouse dwelling unit and bearing only the street number of the dwelling.
- (3) One temporary advertising ground-type sign pertaining only to the sale of a townhouse dwelling unit shall be permitted, provided that such sign shall not exceed six square feet in area. Such signs shall be located not more than 10 feet from the front entrance to the townhouse dwelling unit which is for sale and shall be removed within seven days after the execution of any agreement for the sale of the premises.
- (4) As part of the site plan application, the developer may propose to carry out the project in stages. The staging plan shall be clearly identified on documents submitted with the special use permit application and shall contain dates anticipated for the start and

completion of project activities and various phases. The proposed staging plan shall be a part of the special use permit application. The Planning Commission may approve a request for staging, provided that the developer can demonstrate that such staged townhouse development shall:

- (a) Enable each townhouse cluster(s) to be completed and ready for occupancy prior to the start of development of the next phase;
  - (b) Not affect the residents' use and enjoyment of each townhouse or any open areas;
  - (c) Not necessitate development activity (such as utility extensions, construction vehicles, etc.) that would interfere with developed townhouse clusters; and
  - (d) Not require more than 18 months to complete all development activities on any site of five acres or less.
- (5) All fencing of common areas shall be shown on the site plan.
  - (6) Individual owners may erect privacy fences to enclose outdoor areas of individual dwelling units. Such fences may be up to six feet above ground level, provided that such fencing is located not less than 15 feet from a public street, common off-street parking or storage area or vehicular accessway thereto. Fencing which is closer than 15 feet to a public street or common off-street parking or storage area of vehicular accessway thereto shall not exceed three feet above ground level.
  - (7) Except for land which is owned in common, no property owner shall erect or place an accessory building or structure on the premises.

- (8) The storage of any unregistered vehicles or other similar equipment out of doors overnight shall be prohibited.
  - (9) No commercial vehicles shall be parked out of doors overnight in the townhouse cluster or development except in a common parking area. In no event shall vehicles be parked on any lawn area or along any portion of any street located within the townhouse development.
- I. Special accessory uses. The following special accessory uses may be established for the common and exclusive use of owners of townhouse residences and their guests. Such special accessory uses shall be operated on a not-for-profit basis and subject to the approval of the Board of Appeals.
- (1) Recreational facilities such as open or enclosed tennis courts, exercise facilities, picnic areas, gazebos or swimming pools, as regulated elsewhere in this chapter.
  - (2) One structure to house maintenance shops and vehicles to be used exclusively for the maintenance and management of the townhouse development.
  - (3) Common space for the exclusive use and convenience of residents of the townhouse cluster or development and their guests to park vehicles. Such common space shall be adequately landscaped and buffered so as to screen the site from adjacent areas and uses.

**§ 103-25. Condominium development regulations.  
[Added 3-15-2006]**

Condominiums, as defined in § 103-20B, shall be permitted. In addition to the zoning districts referred to in § 103-20B, condominiums shall also be permitted within the WD and WD-1 Waterfront Districts per §§ 103-13.2 and 103-13.3. The intent of this section is to provide areas within the City for