

DELETE THE EXISTING SECTION 200-20.3 AND REPLACE WITH THE FOLLOWING NEW SECTION 200-20.3:

§ 200-20.3. NFBO Niagara Falls Boulevard Overlay District.

A. Purpose.

- 1) In accordance with the recommendations and policies of the Town of Wheatfield Comprehensive Plan, this overlay district is designed to better manage and accommodate increasing growth and development along the Niagara Falls Boulevard (NFB) corridor through the implementation of guidelines to regulate traffic and transportation, signage, design and other health and safety issues.

This overlay is also intended to encourage the development of uses that are in harmony with *the goals of the Comprehensive Plan*, improve the visual character of the area, protect adjoining residential uses and enhance the character of the area as an important gateway to the Town of Wheatfield.

- 2) This overlay will act to regulate the NFB corridor as a growing commercial district. The NFB is an important transportation corridor through the Town of Wheatfield, handling business, domestic, tourist, and commuter traffic.
- 3) The boundary of the NFB Overlay District is referred to with notation on the Town of Wheatfield Zoning Map and in general represents all properties within the Town of Wheatfield having frontage on the NFB right-of-way (row).
- 4) The NFB Overlay District regulations will supplement the underlying zoning requirements and provide for safe and orderly development.

B. Objectives and General Requirements.

Site plans must be prepared and submitted in accordance with § 200-77 of Article XII of the Town of Wheatfield Zoning Laws. The special regulations contained herein, which govern all proposed development and redevelopment (requiring approvals by the Planning Board or Town Board) within the boundaries of the NFB Overlay District, shall be founded upon the following objectives, and be in accordance with these regulations:

- 1) Emphasis shall be placed upon development and redevelopment of existing properties.
- 2) Commercial development, based on specific standards included in this Overlay (and reference documents that the Town has created), should complement surrounding land uses to improve the character and provide for a positive image of the NFB Overlay District.

- 3) To promote efficient traffic flow and traffic safety, reference should be made to both the New York State Department of Transportation (DOT) Access Management Guidelines and Regulations, and any Town of Wheatfield requirements e.g., shared means of ingress & egress and cross connections to developed and developing properties.
- 4) Landscaping and setback standards shall be of an appropriate size and scale, and aesthetically designed, so as to improve the overall quality of the area.
- 5) All signage and lighting fixtures shall be designed to conform to all applicable New York State and Town of Wheatfield laws and requirements and to ensure that they help to improve the overall quality of the area.
- 6) To protect and preserve the character and quality of the surrounding properties in areas that abut existing residential development, appropriate buffering shall be instituted.
- 7) Architectural designs should complement surrounding land uses and provide for an improved and positive image of the area. Appropriate façade designs that complement and improve the character of the area shall be required. Views from the NFB shall be primary concern.
- 8) Designs shall take into consideration existing surrounding residential areas.
- 9) Attention should be given to the compatibility of adjoining developments when reviewing project proposals.
- 10) Appropriate designs and site layout schemes should be utilized to screen and improve the appearance of utility service and storage appurtenances and storm water detention facilities. Loading areas shall be located towards the rear of the properties and when possible shall be visually screened from NFB.
- 11) New residential development is restricted (see Permitted Principal Uses and related requirements section) within the overlay zoning district. Exception: Residential development in conjunction with commercial development (approved mixed use).
- 12) It should be noted that the provisions of the Airport Zone One Overlay further address the properties contiguous to the Niagara Falls International Airport. Where conflicts occur in the requirements, the Airport Zone One Overlay requirements supersede the NFB Overlay district.

C. Permitted principle uses and related requirements

The uses permitted in the NFB Overlay District will be the same as those permitted in the underlying zoning district(s) with the following exceptions and requirements:

- 1) Retail sales of used vehicles, recreational vehicles (RVs), motorcycles, and boats shall be prohibited, unless in conjunction with new vehicle sales which requires an approved Special Use Permit.
- 2) The retail sale of new vehicles, RVs and boats in zoning districts allowing this use shall meet all the requirements of the Town "Vehicle, Motorcycle, Recreational Van, Boats & Retail Sales Guidelines." Copies of these guidelines are available from the Town Building Department.
- 3) Vehicle display areas for the retail sales and/or service of new vehicles, RVs, motorcycles or boats (or used vehicles in conjunction with new vehicle sales) in the zoning districts allowing these uses shall not be located within a minimum of 10 feet of the right-of-way of NFB.
- 4) No new constructed mini-storage and other storage facilities are permitted in the NFB Overlay District, after the date of this section revision. Existing mini-storage facilities (as of the date of the adoption of this revised overlay) shall be considered as legal non-conforming uses. "Mini-storage warehouse and/or self storage" is defined as a structure(s) partitioned into private storage spaces of varying size, individually leased or rented for varying terms to the public at large. The term "Storage" relates to storage of furniture, files, or other unused or seldom used items in a warehouse or other location for an indefinite period of time. The storage of explosives, flammable, or otherwise hazardous chemicals and/or materials shall be prohibited. Exceptions to this provision are as noted below:
 - a) Storage within the NFB Overlay District is permitted when the storage is an accessory use and incidental to an existing principle use, on the same property with an approved special use permit and site plan approved by the Planning Board. Particular attention will focus on landscaping enhancements.
 - b) Structures existing prior to the date of this section may be converted to storage facility with an approved special use permit and site plan review by the Planning Board. Particular attention will focus on paving, fencing, and landscaping enhancements. No expansion of the existing facility for storage will be permitted without an approved variance application from the Zoning Board of Appeals. (Refer to Article XIV, § 200-94.)
 - c) Mini-storage warehouse parking spaces: one parking space per 2,000 square feet of gross floor area.

- 5) Campgrounds and RV parks are prohibited in the NFB Overlay District except when in conjunction with a motel or hotel with a minimum of 50 units on 10 acres of contiguous property, and in accordance with the other Town regulations for campgrounds and RV Parks.
- 6) For properties zoned C-1 and R-C in this Overlay District, the following restrictions in the zoning code shall apply:
 - a) In Section 200-18 A. Permitted principal uses, for item (1) the following restriction shall apply: Uses as permitted and regulated in the R-3 district shall not be allowed in the C-1 district in this Overlay.
 - b) In Section 200-18 C. Uses permitted upon issuance of a special use permit, paragraph (1) is not applicable (In other words, ~~Uses as permitted in the R-C District~~ are not allowed in the Overlay district).
 - c) In Section 200-17 A. Permitted principal uses, item (1) is not applicable in the Overlay district.
 - d) In Section 200-17 C. Uses permitted upon issuance of a special use permit; item (1) is not applicable.
- 7) For properties zoned M-1 and M-2 in this Overlay district, the following restrictions in the zoning code shall apply:
 - a) In ~~Section 200-19. M-1 Light Industrial District~~, paragraph A. ~~Permitted principal uses~~, sub-paragraph (1), the following restriction shall apply: ~~Uses as permitted and regulated in the R-3 district~~ shall not be allowed. To clarify; the M-1 district allows those uses allowed in the C-1 district, which also allows uses in the R-C district, but in the overlay it does not then allow those uses allowed in the R-3 district.
 - b) In ~~Section 200-19. M-1 Light Industrial District~~, paragraph C. ~~Uses permitted upon issuance of a special use permit~~, sub-paragraph (1), the following restriction shall apply: ~~Uses as permitted in the R-C District~~ shall not be allowed. To clarify; the M-1 district allows by special use permit, those uses allowed by special use permit in the C-1 district, which then allows by special use permit those uses allowed in the R-C district, but in the Overlay it does not allow these R-C uses.
 - c) In ~~Section 200-20. M-2 General Industrial District~~, paragraph A ~~Permitted principal uses~~, sub-paragraph (1), the following restriction shall apply: ~~Uses as permitted and regulated in the R-3 district~~ shall not be allowed. This is the same restriction that applies in the M-1 district.

- d) In ~~%Section 200-20. M-2 General Industrial District+~~, paragraph C ~~%Uses permitted upon issuance of a special use permit+~~, sub-paragraph (1), the following restriction shall apply: ~~%Uses as permitted in the R-C district+~~ shall not be allowed. This is the same restriction that applies in the M-1 district.
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- 8) As noted in the ~~%Objectives and General Requirements+~~ section of this Overlay, ~~%Residential development in conjunction with commercial development (Approved mixed use)+~~ will be allowed in the Overlay. This can be accomplished through the construction of new mixed use structures or the modification/reconstruction of an existing structure. It is not the intent of this provision of the Overlay to allow stand-alone residential structures in commercial districts. These mixed use structures will be allowed in any underlying Commercial (C-1) district as follows:
 - a) The conversion of an existing residential or commercial building to a mixed use structure, or the construction of a new mixed use structure will require site plan approval by the Planning Board in accordance with Town site plan procedures.
 - b) These mixed use structures will be allowed to include uses allowed in the C-1 district and residential uses located at the rear of the building or on the second floor of the structure.
 - c) All other ~~%bulk+(lot size, yards, height, coverage, etc.)~~ and design requirements of the C-1 district and Overlay will apply to these types of developments.
 - 9) Grandfathering of existing residential uses. As of the date of the adoption of this overlay district, which includes the above restrictions of uses, any residential use in a commercial or industrial district may continue as a conforming use in this district. These residential uses will not be made non-conforming and may continue without any restrictions that are typically placed on non-conforming uses. This grandfathering does not allow additional buildings or uses to be added to these sites that are not conforming to the zoning district and overlay.

D. Permitted accessory uses

Accessory uses will be allowed as permitted in the underlying zoning district regulations, but must meet any other requirements listed in this overlay district.

E. Building Architectural standards.

All new buildings, restorations, expansions, special use permits, and any building project requiring a building permit that requires site plan approval shall meet the following requirements:

- 1) Architectural renderings, elevations, and façade treatments/building materials and perspectives shall be presented to the Planning Board for their review and comment. These must also include building renditions, color selections or depict colors in the drawings. Building colors should accent, blend with or complement the surrounding environment. Bright or brilliant colors should be reserved for trim and accents. Blank walls and other dull or dead spaces shall be avoided at street level.
- 2) It is the intent of this overlay that a positive image be conveyed through the use of appropriate building materials, facade treatments and colors.
- 3) Brick, architectural block and other upscale building material shall be utilized on all sides with views to the street line for any building proposed in the overlay.
- 4) Storage unit doors shall be screened from visibility from adjoining residentially zoned or residentially developed properties and from the public roadways to the satisfaction of the Planning Board.
- 5) Proposed floor plans shall be submitted, at the discretion of the Planning Board.

F. Site plan review/design requirements.

Building permits issued for property in the NFB Overlay District for any new structure and any addition that results in an increase to the existing gross square footage shall be accompanied by an approved site plan in accordance with the Zoning Law, Site Plan Review. (Refer to Article XII.). These applications must address the following design requirements:

- 1) All parking areas shall be paved in accordance with the Town's standard details, and not be located within 10 feet of the right-of-way (ROW). The standard details for parking area pavement are available in the Town Building Department.
 - a) Not less than 5% of the interior of a parking area designed for 20 or more vehicles shall be devoted to the required landscaped area.
 - b) Upright poured concrete curbing is to be provided to highlight the landscaping. Exceptions may be allowed based upon snow removal purposes, dumpster access, etc., at the time of the site plan review.

- 2) Parking areas shall include landscaping islands or other methodologies to break up the monotony of these paved areas.
- 3) Entrances to NFB shall be curbed back to at least the parking area and at the discretion of the Planning Board. Highlighted entrance/exit signage may be required by the Board.
- 4) Projects should be "street and pedestrian friendly." Sites should accommodate parking at the sides or rear of the building to the extent possible, and pedestrian access should be an integral part of the plan.
- 5) All crossings of Sawyer Creek must be paved be at least 24 feet in width, or as directed by the Planning Board. Bridges must also include curbing and railings that may have to meet NYS DOT requirements. A licensed professional must certify the design of the bridge.
- 6) Spacing of curb cuts along NFB shall meet the requirements of the NYS DOT Access Management guidelines. Site plan design must make every effort to provide for shared access or cross-easement agreements to adjacent properties.
- 7) Entrances to NFB shall be minimized and located appropriately in accordance with the standard access management guidelines, as directed by the Planning Board.
- 8) Each application shall include a traffic control plan, including planned access to adjoining properties (cross access agreements), where appropriate.
- 9) All signage being proposed must be depicted on the site plan and must be in accordance with Article IX, Town Zoning Law, and the following additional requirements:
 - a) Pylon signs are strongly discouraged.
 - b) Ground signs with materials complimentary to the building, and appropriate landscaping around these signs, will be provided.
- 10) Buffering/Screening: All proposed uses that abut a residential zoning district (R-1, R-2, R-3 or a residential area within a PUD), must provide a minimum 50 foot buffer area (on all sides that abut these residential districts) that that will be completely landscaped, fenced and/or a berm constructed, as directed by the Planning Board. The purpose of this area will be to screen and buffer these non-residential uses from the adjoining residential uses. In some cases this buffer area may be required to be larger depending on the height and nature of the proposed business.

- 11) Parking area lighting fixtures shall be of dark-sky-compliant design and designed to illuminate the parking area only. Lighting plans shall be submitted and must include illumination footprints for review by the Planning Board. This design shall not create a nuisance to adjacent properties. Lighting fixtures shall be reduced after 11:00 p.m. Security lighting and other building lighting will be allowed to operate in accordance with Town requirements.
- 12) All applications within the Overlay District must:
 - a) Include a detailed landscape plantings and treatments designed as an integral part of the entire development plan. The Planning Board reserves the right to consult with a certified New York State-licensed Landscape Architect at the developer's expense. The following landscape requirements require addressing:
 - i. Reference must be made to the Town's Greenspace Plan and any greenspace attributes related to the project area must be protected and incorporated into the design to the maximum extent practicable.
 - ii. Trees or other plantings must be added along the ROW (set back the appropriate distance) not more than 30 feet on center spacing or as directed by the Planning Board.
 - iii. All parking areas must be screened from adjoining residential uses by landscaping, fencing, berms or other acceptable screening. Fencing viewed from the NFB must be vinyl or high quality wood to forestall severe weather deterioration for aesthetic and maintenance considerations.
 - iv. All areas of existing trees including, but not limited to, trees of 12 inches in diameter and larger shall be identified on the plans and every effort should be made to save these areas.
 - v. All required landscaping areas and fences, must be maintained after installation. Inspections by the Town Building Department shall be made after certificate of occupancy is obtained for a period of two years. All landscaping and fences found not in accordance with the approved plan or to have perished will be replaced by the owner.
 - vi. Deciduous trees planted shall have a minimum caliper of 2 1/2 inches, measured six inches above the ground. All coniferous plantings shall be a minimum size of five feet high with the plant having at least a two-and-one-half-feet spread.
 - b) Refuse storage (dumpster) shall be depicted on the plans and shall be fenced by an eight foot fence on all four sides and not be located near or

adjacent to surrounding residential properties, preferably not visible from the NFB.

- c) No outdoor speakers or other noise producing devices shall be permitted.
- d) See the Town of Wheatfield Design Guidelines package for additional direction on these Overlay design requirements.

G. Subdivision regulations.

The division of all lands, regardless of zoning classification, shall be subject to subdivision regulations as set forth by the Town of Wheatfield.

- H. Vehicle, recreational van, boats, motorcycle & retail sales guidelines are available from the Town Building Department. It is the applicant's obligation to comply with these guidelines.
- I. Waivers. The Planning Board may waive or modify any requirements under this section, but must not diminish the intent and purpose of the NFB Overlay District. The basis for any such waiver of modification shall be set forth in the official minutes of the Planning Board.