

By: Mr. Scanlon and Mr. Feroletto

ORDINANCE AMENDMENT
CHAPTER 264. RENTAL DWELLING UNIT REGISTRATION

The Common Council of the City of Buffalo does hereby ordain as follows:

That Chapter 264, entitled RENTAL DWELLING UNIT REGISTRATION, of the Code of the City of Buffalo be amended to read as follows:

Chapter 264. Rental Dwelling Unit Registration

§ 264-1. Legislative findings and intent.

The Common Council of the City of Buffalo hereby finds and declares that the rental of dwelling units constitutes a business which impacts upon the public health, safety and general welfare of the people of the City of Buffalo. The intent of this chapter is to regulate the long and short term [offering for] rental of dwelling units to protect the public health, safety and general welfare of the people of the City of Buffalo and to further achieve the following beneficial purposes:

- A. The protection of the character and stability of residential areas;
- B. The correction and prevention of housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying dwellings;
- C. The enforcement of minimum standards for heating, plumbing, adequate bathroom facilities and other recognized acceptable living conditions [sanitary] necessary for health and safety;
- D. The enforcement of minimum standards for light and ventilation necessary for health and safety;
- E. The enforcement of minimum standards for the maintenance of existing residential buildings and the prevention of slum and blight conditions;
- F. The preservation of the value of land and buildings throughout the City.

§ 264-2. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

COMMISSIONER OF PERMIT AND INSPECTION SERVICES or COMMISSIONER
The Commissioner of Permit and Inspection Services or his designee.

DWELLING UNIT-A single residential accommodation which is arranged, designed, used or, if vacant, intended for use exclusively as a domicile or residence of one or more human beings.

OWNER OCCUPIED SHORT-TERM RENTAL-The rental of a dwelling unit for a time period between one and thirty days with no in-room cooking facilities, but may include dining facilities and common meeting rooms. Owner **must** be a resident of the property (UDO) Table 6A **LODGING-Bed and Breakfast.**

NON-OWNER OCCUPIED SHORT-TERM RENTAL- The Short-Term Rental of a dwelling that is owned and maintained by a person, corporation or agent, who has legal authority to obtain a license to use the property for the purpose of a Short-Term Rental, but who does not live within the main dwelling rented or does not share a roof in common with the property used for said services.

SPECIAL USE PERMIT- A requirement of a Non-Owner Occupied Short-Term Rental pursuant to UDO 496 §11.3.3. Special use permits are subject to review by the Planning Board for recommendation to the Common Council.

SHORT-TERM RENTAL LICENSE- A license to operate a Short-Term Rental issued by the Commissioner of Permits and Inspection Services following the approval of a Short-Term Rental certificate and/or a Special Use Permit.

HOUSING CODE-All state and local laws, codes, ordinances, rules and regulations for the establishment and maintenance of housing standards.

OWNER-The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or agent.

§ 264-3. Rental dwelling unit registration required; exemptions.

A.

Registration required. No person shall allow to be occupied, or rent to another for occupancy, any dwelling unit unless the owner has first obtained a rental dwelling unit or A Short-Term Rental [registration] certificate as hereafter provided.

B.

Exemptions. With the [E] exception of Owner-Occupied Short-Term Rentals containing two or fewer dwelling units, [the provisions of this chapter shall not apply to] owner-occupied properties containing two or fewer dwelling units such as; hotels; motels; bed-and-breakfast establishments; rooming or boarding houses; hospitals; nursing homes; or other dwelling units which offer or provide medical or nursing services if such units are subject to state or federal licensing or regulations concerning the safety of the users, patients or tenants are exempt from the Rental

Dwelling Unit Registration. The provisions of this chapter shall not apply to buildings having an existing and valid certificate of occupancy.

- (1) Exemptions to provisions herein concerning lead in a property shall not apply to properties constructed after 1978, or to properties for which the owner has submitted a letter of compliance from a licensed lead inspector. In addition, the Commissioner of the Department of Permit and Inspection Services, or his designee, may determine that a property is in compliance. The Department of Permit and Inspection Services reserves the right to request a third party verification of compliance concerning safety of the property.
- (2) Owner occupied and non-owner occupied properties containing two or fewer dwelling where the owner engages in the Short-Term Rental must meet all other applicable legal requirements as set forth in the City of Buffalo Codes and Unified Development Ordinance (UDO).

§ 264-4. Application for registration.

A.

[Within 60 days after the effective date of this chapter,].The owner of each dwelling unit existing on the effective date of this chapter shall make written application to the Commissioner of Permit and Inspection Services for a “Short-Term Rental” registration certificate. [In addition, the owner of each dwelling unit constructed after the effective date of this chapter shall make written application to the building official for a rental dwelling unit registration certificate as herein provided prior to any initial occupancy.] Such application shall be made on a form furnished by the Commissioner and shall set forth the following information. The Commissioner [in addition to] may request other information [required by the Commissioner] from time to time which may be necessary to administer, enforce, and insure compliance with the provisions of this chapter and the housing code. Each application shall include the following:

- (1) Name, principal residence address, principal business address and telephone number of the owner.
- (2) For Owner-Occupied Short-Term Rental certificate, proof of owner occupancy shall mean a driver’s license coupled with two forms of official mail in the name of the applicant, addressed to the property for which the license is requested. A Short-Term Rental Certificate is sufficient to obtain a license to operate, unless otherwise ineligible pursuant to the following:
 - a. Non-conventional home e.g. adaptive reuse properties never used as residential in the past.
 - b. Property is subject to tenant agreement governed by law, e.g. HOA agreements.
- (3) Pursuant to Chapter 265 of the City of Buffalo Code, if the owner is an association, limited liability partnership, joint tenancy, tenancy in common or tenancy by the entirety,

then each and every owner or general partner shall be indicated on the application and register an address in accordance with Subsection A(1) of this section.

- (4) Pursuant to chapter 265 of the City of Buffalo Code, if the owner is a corporation, the principal place of business of the corporation must be provided and the name, title and residence address of all officers, directors, managing or general agents must be included.
- (5) If the owner has designated an agent or managing company, then the name, principal residence address, principal business address and telephone number of such agent or managing company must be included in addition to that of the owner.
- (6) It shall be the responsibility of the owner to properly register any change of address, agent or any other information which occurs after the filing of the application.
- (7) For purposes of this section, a post office box shall not be accepted as the owner's address. Further, the building intended to be licensed shall not be accepted as the owner's address unless it is the principal place of business or residence of the owner.
- (8) The owner shall specify the address to which all notices of violation issued pursuant to § 264-15 of this chapter, and other violations of the housing codes, and invoices for fees are to be forwarded.
- (9) Pursuant to chapter 265 of the City of Buffalo Code if the owner does not reside within the County of Erie (New York State), the name address and telephone number of a contact/agent who resides in the County of Erie (New York) must be provided.
- (10) If the property was constructed prior to 1978, the owner shall certify that: the owner is aware of the possibility of lead in the property; that the owner is aware of federal disclosure requirements concerning property that may contain lead and has complied with federal disclosure requirements; and that the owner is familiar with the use of lead safe methods during painting, renovation, or repair of the property. Said Certification will be made available for completion on the City of Buffalo webpage and in the Department of Permit and Inspection Services at City Hall.

§ 264-4 B Short-Term Rentals Allowed Within the City of Buffalo:

- a. Owner Occupied Short-Term Rentals allowed as of right throughout the City of Buffalo Except in N-4-30s and N-4-50 zones.
- b. Non-Owner Occupied Short-Term Rentals not allowed without a special use permit.
- c. Short-Term Rentals Not allowed in N-4-30s and N-4-50s zones without a zoning variance issued by the City of Buffalo Zoning Board Appeals (ZBA).
- d. Non-Owner occupied Short-Term Rentals must first obtain a special use permit coupled with a Short-Term Rental certificate. The special use permit coupled with

a Short-Term Rental certificate will be sufficient to grant such applicant a license to operate a Non-Owner Occupied Short-Term Rental throughout the City of Buffalo, unless otherwise ineligible pursuant to Chapter 496 § 11.3.3 of the UDO.

- e. Non-Owner Occupied Short-Term Rental Not allowed in multiple residential dwelling units such as apartment buildings.
- f. Properties may only be used for the purpose of Short-Term Rentals if the City has issued a Short Term Rental Certificate. Properties used for the purpose of Short-Term Rentals shall be subject to an annual inspection to determine compliance with the housing code.
- g. Non-Owner Occupied Short Term Rental is **Only** allowed as provided pursuant to Chapter 496 of the Unified Development Ordinance (UDO) Table 6A LODGING-Bed/Breakfast. A maximum of twenty-one (21) occupants at a time.

B.

Failure to provide such information shall be grounds to deny a rental dwelling unit registration certificate.

§ 264-5. (Reserved)

§ 264-6 Issuance or denial of rental dwelling unit registration.

A.

The City of Buffalo shall issue a Short-Term Rental dwelling unit certificate for such properties after satisfactory completion of the City's annual inspection.

B.

Upon completion of an inspection of a building and dwelling units therein, if the Commissioner finds noncompliance with the housing code, the Commissioner shall issue a notice of violation in accordance with § 264-15 of this chapter for the correction of any violations of the housing code. Upon re-inspection, if the Commissioner finds noncompliance with the notice of violation the Commissioner shall deny a certificate or revoke any issued certificate in accordance with the procedure set forth in § 264-10 of this chapter. The Commissioner shall issue a written statement setting forth the reasons for the denial or revocation.

§ 264-7. Effect of denial or revocation.

A.

Vacant units. When a rental dwelling unit registration certificate has been denied or revoked, no further rental and occupancy of dwelling units then vacant shall be permitted until a rental dwelling unit registration certificate has been issued.

B.

Occupied units. In addition to other penalties under this chapter, when a rental dwelling unit registration certificate has been denied or revoked, the dwelling units containing such violations shall be vacated after the Commissioner provides notice to the owner and the occupants of the

dwelling units containing said violations. Such notice shall direct the owner and occupants of the dwelling units containing such violations to vacate within a period of time as determined by the Commissioner and may provide a reasonable period for the owner or occupants an opportunity to correct such violations. For the owner, such notice shall be mailed by first class mail to the owner at the address provided by the owner pursuant to § 264-4 of this chapter or personally served upon the owner by delivering the notice to the owner or by delivering the notice to a person of suitable age and discretion at the owner's residence or place of business. For the occupants, such notice shall be mailed to the occupant at the dwelling unit or posted conspicuously at the occupant's dwelling unit. Vacated dwelling units shall not be reoccupied until a rental dwelling unit registration certificate has been issued.

C.

Occupied units; immediate hazard. In addition to other penalties under this chapter, when a rental dwelling unit registration certificate has been denied or revoked for reasons which, in the determination of the Commissioner, present violations of the housing code that create an immediate hazard to the health and safety of the occupants, the dwelling units containing such violations shall be vacated within 30 days of such determination. The Commissioner's determination shall be in writing and shall direct the owner and occupants of the dwelling units containing such violations to vacate the premises within a period of time not to exceed 30 days, as determined by the Commissioner. The Commissioner's determination shall be mailed by first-class mail to the owner at the address provided by the owner pursuant to § 264-4 of this chapter or personally served upon the owner by delivering the notice to the owner or by delivering the notice to a person of suitable age and discretion at the owner's residence or place of business. The Commissioner's determination shall also be posted at the subject building and, to the extent possible, it shall also be posted conspicuously at each dwelling unit. Vacated dwelling units shall not be reoccupied until a rental dwelling unit registration certificate has been issued.

D.

The notices provided under this section shall not be used to institute, or deemed to establish sufficient grounds for, a summary eviction proceeding under the Real Property Actions and Proceedings Law.

E.

Failure to comply with the annual inspection requirement shall result in denial or in the immediate revocation of the Short-Term Rental certificate.

F.

The terms and conditions of this chapter shall apply to holders of Short-Term Rental certificates.

§ 264-8. Term of rental dwelling unit registration.

A.

The terms and conditions of this chapter shall apply to holders of Short-Term Rental certificates.

B.

A rental dwelling unit registration issued pursuant to this chapter shall expire one year after the date of its issuance, unless sooner revoked pursuant to § 264-10. Within 60 days prior to the expiration of a rental dwelling unit registration certificate, the owner shall make written application for a rental dwelling unit registration certificate in accordance with § 264-4 of this chapter. In no event shall a certificate be issued pursuant to this chapter remain in effect more than one year after the date of its issuance unless further extended by the Commissioner for sufficient cause.

§ 264-9. Transfer of rental dwelling unit registration.

A.

The terms and conditions of this chapter shall apply to holders of Short-Term Rental certificates.

B.

A rental dwelling unit registration issued pursuant to this chapter is legally transferable to any person who has acquired ownership of a registered building for the unexpired portion of the one-year term for which it was issued, provided that an application to transfer such certificate is filed with the Commissioner within 30 days of title transfer and the dwelling units therein are in compliance with the housing code and other safety codes. Notwithstanding the above, in the case where the property is subject to a special use permit, no additional actions are needed on the part of the new owner, provided that the continued use is within said year of the transfer.

§ 264-10. Revocation of rental dwelling unit registration certificate.

A.

A rental dwelling unit registration certificate issued pursuant to this chapter may be revoked by the Commissioner for any one or more of the following reasons.

- (1) Fraud, misrepresentation or a false statement as to a material fact in the application.
- (2) A finding that a rental dwelling unit registration was issued in error and not in accordance with applicable law.
- (3) A violation of any of the provisions of this chapter, including noncompliance with a notice of violation issued pursuant to § 264-15.
- (4) The Commissioner, or his designated representative, determines that the rental dwelling unit does not substantially conform [with] to this chapter or the New York State Uniform Fire Prevention and Building Code.
- (5) The terms and conditions of this chapter shall apply to holders of Short-Term Rental certificates.

B.

Prior to such revocation, the Commissioner shall hold a hearing, after at least 10 days' notice of the time and place of the hearing provided to the owner. The Commissioner shall issue a written statement setting forth the reasons for the decision.

§ 264-11. Duties of certificate holder.

Every holder of a rental dwelling unit registration certificate shall:

A.

Conspicuously post the certificate in a protected mounting in the public corridor, hallway or lobby of the building for which the certificate was issued. This posting shall be in a common entrance. If no common entrance exists, then posting shall be made at the entrance of each dwelling unit. In the alternative to such posting, the license shall be produced by the owner at the request of a tenant, a prospective tenant or upon demand of the Commissioner.

B.

Conform [with] to all other applicable state, county and City laws and ordinances on matters not specifically addressed in this chapter.

C.

The rental agreement or lease for a dwelling unit regulated under this chapter must include a disclosure of the smoking policy for the premises on which the dwelling is located. The disclosure must state whether smoking is prohibited on the premises, allowed on the entire premises or allowed in limited areas on the premises. If the smoking policy allows smoking in limited areas on the premises, the disclosure must identify the areas on the premises where smoking is allowed.

D. The terms and conditions of this chapter shall apply to holders of Short-Term Rental certificates.

§ 264-12. Fees.

A.

The Commissioner shall review the fee schedule annually and recommend changes as he deems appropriate, to the Common Council.

§ 264-13. Penalties for offenses.

A.

Any violation of this chapter by a person, firm, corporation or other entity shall be a violation punishable in accordance with the general penalty provisions under Buffalo Code § 1-15, with said penalties to be in addition to the revocation of a rental dwelling unit registration certificate issued under the provisions of this chapter. In addition, the annual registration fee will double 30 days after the due date has passed and a second invoice for payment has been sent first-class mail to the owner. In addition, a summons will be issued 60 days after the due date has passed and a fine in the amount of \$75.00 will be imposed in addition to all outstanding registration fees and late charges. Furthermore, a notice to vacate may be issued and all tenants removed for failure to register a dwelling unit 30 days after the due date has passed and after notice to the owner and occupants by the Commissioner.

B.

Notwithstanding the lack of a specific reference thereto, failure to comply with any section, provision or requirement in this chapter shall be a violation and shall be punishable by a fine or

penalty of not more than \$1,500 or by imprisonment for not more than 15 days, or by both such fine and imprisonment, for each such offense and any other applicable state statutes. This chapter is a part of the City health, safety, housing, building, fire prevention and housing codes, and a violation thereof shall be deemed to be a violation for purposes of state statutes allowing escrow of rent to remedy violations. Any charges involving violations of this chapter may be brought before the Housing Part in Buffalo City Court.

C.

Lead Based Paint violations are subject to Fines pursuant to Chapter 137-7 Schedule of fines and penalties. In addition, upon a finding of existing Lead Based paint violations by the Department of Permit and Inspection Services, the owner of the affected property must remediate said violation. Remediation is complete when a licensed lead inspector provides a letter of compliance for said property, or when a licensed lead risk assessor provides a one-year-letter of interim control for the property. Letters of interim control are valid for one year and may be renewed only once. In addition, the Commissioner of the Department of Permit and Inspection Services, or his designee, may determine that a lead based paint violation is in compliance. The Department of Permit and Inspection Services may result in the revocation of the property's Rental Registration Certificate.

D.

The terms and conditions of this chapter shall apply to holders of Short-Term Rental certificates.

§ 264-14. Enforcement inspection criteria and authority.

A.

Upon the rental dwelling unit being registered, the owner of the rental dwelling unit consents to the inspection of the dwelling unit by the Commissioner or his designated representative. The Commissioner, or his designated representative, may make an inspection of the rental dwelling unit to determine whether or not such rental dwelling unit is in substantial compliance with this chapter and the New York State Uniform Fire Prevention and Building Code. At the conclusion of said inspection, the Commissioner, or his designated representative, shall provide the owner, or the owner's representative, at the inspection with a copy of the results of the inspection.

- (1) For properties constructed prior to 1978, the owner of the rental dwelling unit consents to the inspection of the dwelling unit by the Commissioner or his designated representative for lead violations or hazards. Upon testing of paint in the property, any owner found to have a property with existing Lead Based Paint violations must remediate the violation according to provisions set forth in this chapter. Where violations or hazard are present, the rental dwelling unit registration certificate applicant must submit proof of completion of a local EPA Accredited Renovation, Repair and Painting Training Program in the time allotted by the Department of Permit and Inspection Services.

B.

If the results of the inspection conducted pursuant to § 264-14A above demonstrate that the dwelling unit is in substantial compliance with this chapter and the New York State Uniform Fire

Prevention and Building Code, the owner of the dwelling unit shall be entitled to retain his or her rental dwelling unit registration certificate.

C.

The terms and conditions of this chapter shall apply to holders of Short-Term Rental certificates.

§ 264-15 Grounds For Revocation/ Suspension of Short-Term Rental License

A Short-Term Rental License may be revoked for any of the following reasons:

A.

If the certificate was issued in error.

B.

If the certificate was not issued in accordance with applicable laws, ordinances, codes or regulations.

C.

If any applicable law, ordinance, code or regulation has not been complied with.

D.

If the conditions upon which the license was issued are not fulfilled.

E.

If violations of laws, ordinances, codes or regulations are not corrected with the time period specified in any notice of such violation.

F.

If the structure, its occupancy or its use is changed or altered without the required permits or approvals.

G.

More than three noise violations within a year of the issued license. However, where the third noise violation is within four (4) weeks or less of the second violation, the date of issuance of the most recent license is not a factor in revocation.

§ 264-16 Procedures for Revocation/ Suspension.

Licenses/certificates for Short-Term Rentals may be revoked or suspended in accordance with the following procedures:

A.

A Short-Term Rental license may be suspended immediately for continuous and persistent noise violations at the discretion of the Commissioner prior to scheduling a hearing. Following a suspension, a property owner may re-apply to obtain a new short-term rental license pursuant to § 264-16.

B.

A written notice of intent to revoke must be issued to the owner or agent of the structure for which the certificate/license was issued. The notice must specify the reason(s) for such revocation. Such notice shall be served by certified mail, return receipt requested, addressed to the owner or agent at his last known place of residence as shown by the records of the Department of Permit and Inspection Services, Department of Assessment and Taxation or Division of the Treasury, or the original application form.

B.

In the event that a receipt for the notice is not returned to the Department, a second notice shall be served on the owner or agent in the manner provided under New York State Civil Practice Law and Rules for service of a summons in a civil action.

C.

The notice(s) aforementioned shall also contain the time and place at which a hearing will be granted before the Commissioner or his designee, at which time the owner or agent shall be afforded the opportunity to present testimony and evidence regarding the particulars contained in the aforementioned notice. The time of said hearing shall be specified on a date no sooner than five day after service of the notice and no later than the 10 days thereof.

D.

If the owner or agent appears at said hearing before the Commissioner/or his designee, he/she shall thereafter make a further determination which shall:

(1) Affirm his intention to revoke the Short-term Rental License with reasons.

(2) Modify the specifications of this original intention to revoke the Short-term Rental License with reasons; or

(3) Vacate the original notice with reasons.

D-1

A third (3) violation of the City of Buffalo Code Chapter 12, §12-7 shall mean immediate suspension followed by a notice to appear. Such notice shall be issued within three (3) days of the immediate suspension.

The nature of the appearance shall be at the discretion of the Commissioner **only**, and he/she may decide to uphold the suspension for any amount of time not to exceed six (6) months, at which time a set date for a scheduled hearing as described above shall be made to address the immediate suspension described herein.

E.

The Commissioner or his designee shall notify all parties who appeared at the hearing, and the agency or owner of the subject property of his final determination within five(5) days after the hearing in the manner specified in subsection A hereof.

F.

If the determination is to revoke the license, such revocation shall be effective upon service of the final notice of revocation.

§ 264-[15] 17. Notice of violation.

A.

Whenever the Commissioner determines that a building or a dwelling unit contained therein is in violation of the following, including but not limited to, Housing Code Chapter 264, the UDO Chapter 496, any one of the grounds listed in section 264-15 above, and/or the City of Buffalo Noise Ordinance Chapter 12 § 7, [he shall issue] a notice of violation shall be issued setting forth at a minimum:

- (1) The location and registered owner of the subject property;
- (2) Specific violations of the City of Buffalo codes, or ordinances; and
- (3) A reasonable time, not to exceed 60 days, for the correction of any violations.

B.

Such notice may contain any additional information as determined by the Commissioner which may be necessary to achieve the goals of this chapter.

C.

For purposes of this chapter, the Commissioner may grant additional time to correct violations of the housing code beyond 60 days for sufficient cause as determined by the Commissioner. Any such extensions shall be issued in writing by the Commissioner stating the reasons for such extension and otherwise in accordance with the requirements of this section.

D.

The notice of violation may be mailed by first class mail to the address provided by the owner pursuant to § 264-4 of this chapter.

§ 264-[16] 18. Tenant accountability.

A.

With respect to the dwelling unit which the tenant occupies, controls or uses, the tenant shall be responsible for the following standards.

- (1) Occupancy limitations and the lawful use of a dwelling unit.

- (2) Maintenance of the dwelling unit in a clean, safe and sanitary condition.
- (3) Maintenance of plumbing, cooking and refrigeration equipment, appliances, fixtures and facilities contained in the dwelling unit in a clean and sanitary condition and providing reasonable care in the operation and use thereof.
- (4) Keeping exits in the dwelling unit free and clear.
- (5) Disposing of garbage and refuse into provided facilities in a sanitary manner and keeping the dwelling unit free and clear from garbage, refuse and debris.
- (6) Keeping domestic animals and pets in an appropriate manner and under control.
- (7) All dwelling unit tenants shall comply with all applicable ordinances of the City of Buffalo code at all times.
- (8) The terms and conditions of this chapter shall apply to holders of Short-Term Rental certificates.

B.

To the extent that the owner can provide the Commissioner with competent evidence that tenants have not complied with the above standards or that the tenants have contributed to the existence of housing code and other safety codes violations at the property, the Commissioner may deem such circumstances to be sufficient cause to extend time for the correction of the violations pursuant to § 264-15 of this chapter.

§ 264-[17] 19. Appeals.

A.

Any person affected by any notice or order which has been issued under any provision of this chapter or of any rule or regulation adopted pursuant thereto may request and shall be granted a hearing on the matter before the Commissioner of Permit and Inspection Services. Upon receipt of a written petition from such person, which petition shall contain a brief statement of the grounds therefor, the Commissioner shall hold a hearing, at which time such person shall be given an opportunity to show why such notice or order should be modified or withdrawn. No such hearing shall be required unless the petition therefor shall have been filed in the office of the Commissioner within five days after the date the notice or order was issued. On receipt of such petition, the Commissioner shall set a time and place for such hearing and shall give the petitioner written notice thereof. The hearing shall be commenced not later than 10 days after the date on which the petition was filed. After such hearing, the Commissioner may sustain, modify or withdraw the notice or order complained of by the petitioner, depending upon his finding as to whether the provisions of this chapter and of rules and regulations adopted pursuant thereto have been complied with. After any such hearing, in the case of any notice or order suspending any permit required by this chapter, when such notice or order has been sustained by the Commissioner, such suspended permit shall be deemed to have been revoked. The proceedings at such hearing, including the findings and decision of the Commissioner, shall be reduced to writing and entered

as a matter of public record in the Office of the Commissioner. Such record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Commissioner may appeal therefrom to any court of competent jurisdiction under the procedures provided by the laws of this state.

B.

No provision or requirement herein contained for a hearing shall in any way whatsoever affect or impair the right of the Commissioner to at any time bring such legal proceedings, actions or prosecutions as otherwise or elsewhere are permitted by law or ordinance.

C.

Whenever the Commissioner finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately but, upon written petition to the Commissioner, shall be afforded a hearing as soon as possible. After such hearing, depending upon his finding as to whether the provisions of this chapter and the rules and regulations adopted pursuant thereto have been complied with, the Commissioner shall continue such order in effect or modify or revoke it.

§ 264-[18] 20. Severability.

If a term, part or provision, section, subdivision or paragraph of this chapter shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to affect, impair or invalidate the remaining terms, parts, provisions, sections, subdivisions and paragraphs.

§ 264-[19] 21. Commissioner's regulations.

The Commissioner is authorized to promulgate regulations consistent with the provisions of this chapter in order to carry out the objectives of this legislation.

- i. Violations, included but not limited to chapter 264 of the housing code and other safety codes, chapter 12 Noise Ordinance, and Chapter 496 of the UDO, if reduced to a judgment maybe rolled unto the City of Buffalo tax roll, if left uncured.

§ 264-[20] 22. Remedies not exclusive.

The provisions of this chapter are not exclusive and are in addition to and do not supersede or preempt other remedies or provisions of the City, state, or federal laws and housing codes as may apply.

§ 264-[21] 23. Fees.

A.

Certificate issuance. The fee, to be submitted at the time of application, for the issuance of a rental dwelling unit registration certificate and the first year fee shall be \$20 for a rental dwelling unit in a single-family dwelling and \$40 for a two-unit rental dwelling.

B.

Short-Term Rental certificate fees. All owners engaged in Short-Term Rentals, where the property is owner occupied, shall pay a first time certificate fee of One Hundred Fifty Dollars (\$150.00) and a subsequent annual certificate fee of Seventy Five Dollars (\$75.00) thereafter. The owner of a property engaged in Short-Term Rentals where the property is not owner occupied shall pay a first time certificate fee of Two Hundred Fifty Dollars (\$250.00) with a subsequent annual certificate fee of One Hundred Fifty Dollars (\$150.00) thereafter. Pursuant to Chapter 496 of the UDO, all non-owner occupied Short-Term Rentals must obtain a special use permit subject to Planning Board recommendation to the City of Buffalo Common Council.

C.

Annual renewal fee. The owner of a rental dwelling unit shall pay an annual renewal fee of [~~\$10~~] \$25 for a single-unit rental dwelling and [~~\$20~~] \$50 for a two-unit rental dwelling, commencing on January 1, 2018, and payable each year thereafter. The owner remains obligated to pay such fee during ownership of the rental dwelling unit and shall pay any delinquencies therein before transferring all or any part of the ownership of said unit. Notwithstanding the foregoing, a new owner making application for a certificate is obligated, and shall be required, to pay all such current and delinquent annual fees with the application. All funds generated from the Rental Dwelling Unit Registration Ordinance shall be placed in a designated T&A account starting in the 2006-2007 fiscal year. The use of these funds shall be, among other things, [~~solely~~] for the hiring of an additional staff person and/or necessary equipment for the Rental Dwelling Unit Registration Program in the Department of Permit and Inspection Services.

[C.] D.

No fee for new buildings. There shall be no fee charged for the issuance of a rental dwelling unit registration certificate for new dwellings at the completion of their construction covered by a building permit.

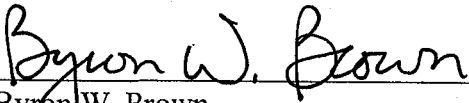
[D.] E.

Inspection fees. Every property owner shall pay a fee of \$75, to be assessed against the property, for each inspection after the second inspection in which violations of a state or local building code are found, unless such fee is waived by the Bureau of Administrative Adjudication. Inspectors shall assess the fee, after consultation with the Chief Building Inspector or the Commissioner of Inspections, Licenses and Permits, when, in the evaluation of the inspector, the status of the violation has not progressed or been satisfactorily completed. The fee shall not be applicable to inspections ordered after the commencement of a court action.

Section 1: Insofar as the provisions of this ordinance amendment are inconsistent with the provisions of any other ordinance amendment or act, the provisions of this ordinance amendment shall be controlling.

Section 2: This Ordinance Amendment shall take effect once it is duly ratified pursuant to City Charter § 3-19

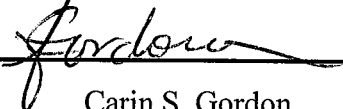
IT IS HEREBY CERTIFIED pursuant to Section 3-19 of the Charter of the City of Buffalo that immediate passage of this Ordinance Amendment is necessary.


Byron W. Brown

Mayor

NOTE: Matter underlined is new,
matter in brackets [] is to be deleted.

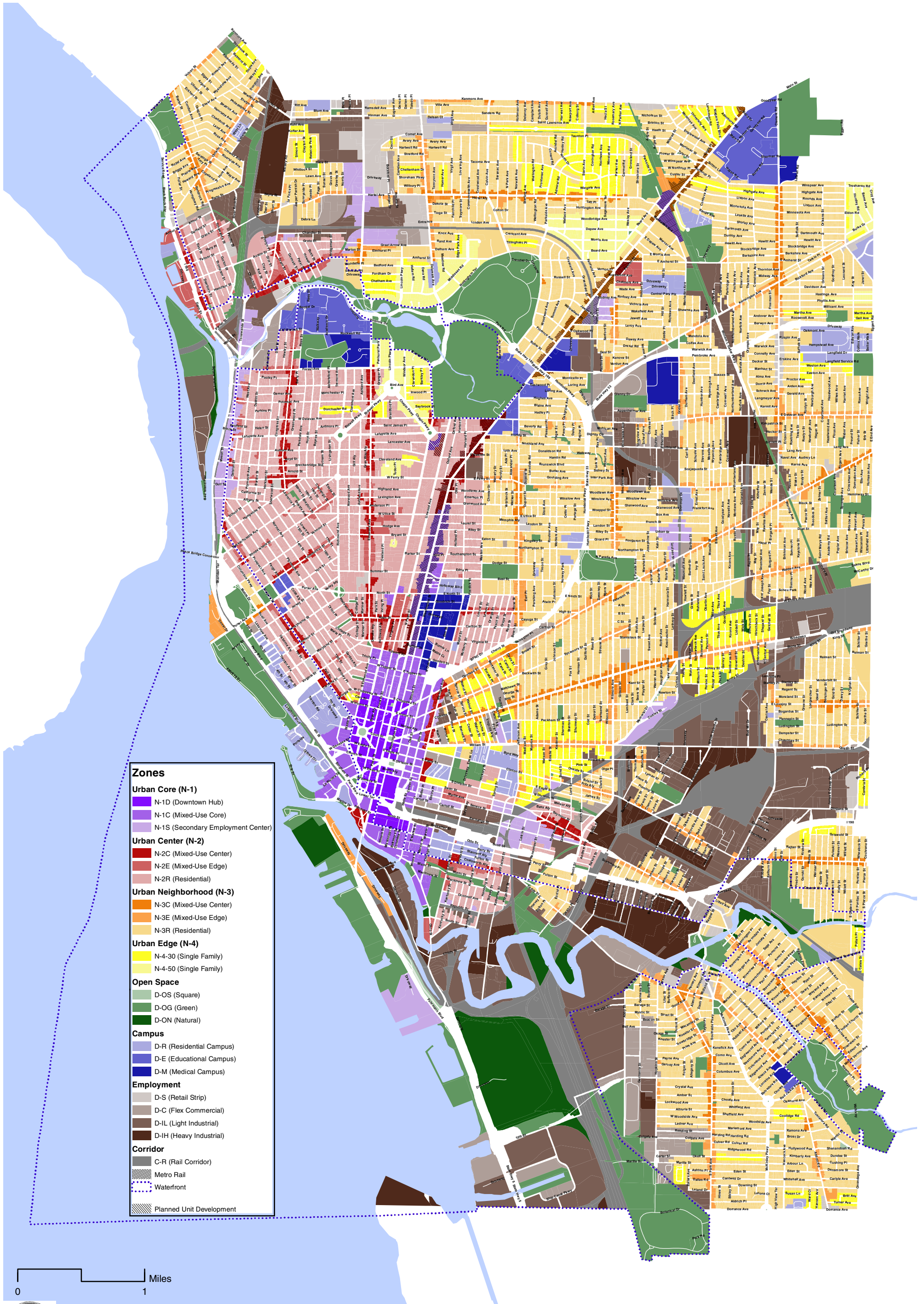
APPROVED AS TO FORM ONLY:



Carin S. Gordon
ASSISTANT CORPORATION
COUNSEL

Zoning Map

City of Buffalo, Unified Development Ordinance



0 1 Miles



City of Buffalo
Mayor's Office of Strategic Planning
December, 2016



SPECIAL USE PERMIT



11.3.3 Special Use Permit

- A. Description.** A special use permit allows certain uses that have increased potential for incompatibility in a zone to be carefully reviewed to determine, against fixed standards, whether their establishment on any given site should be allowed. These uses may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the local impact and effect.
- B. Initiation.** A property owner, or person expressly authorized by the property owner in writing, may initiate a special use permit.
- C. Authority.** The Common Council, after receiving a recommendation from the City Planning Board, must take action on requests for a special use permit.
- D. Procedure**
 - 1.** A special use permit application must be filed, including payment of the applicable fee, with the City Clerk in accordance with Section 11.2.1. Once it is determined that the application is complete, the City Clerk must forward the application to the City Planning Board.
 - 2.** Within 30 days of receipt of the determination of completeness, the City Planning Board must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Common Council.
 - 3.** Within 62 days of the determination of completeness, the Common Council must hold a public hearing on the proposed special use permit. Notice of the public hearing is required in accordance with Section 11.2.2.
 - 4.** Within 62 days of the closing of the public hearing, the Common Council must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the Common Council.

E. Approval Standards. The City Planning Board must make written findings of fact on, and the Common Council decision must consider, the following criteria:

1. The proposed use is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
2. The proposed use will be established, maintained, and operated so as to not endanger the public health, safety, or welfare.
3. The proposed use will be established, maintained, and operated so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property in any foreseeable manner.
4. The proposed use will be of a character that does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area.
5. The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.
6. The proposed use will not result in the destruction, loss, or damage of any feature determined to be of significant natural, scenic, or historic importance.

F. Conditions. In granting a special use permit, reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit may be imposed. Such conditions may include, but are not limited to, limits on location, scale, intensity, design, lighting, signs, and hours of operation, or provision for recreation, open space, and buffers and screening. Failure to comply with any condition or restriction constitutes a violation of this Ordinance and, in addition to any other civil or criminal remedy or enforcement procedure, is grounds for modification, suspension, or revocation of the special use permit.

G. Modifications to Approved Permits. No use allowed

by a special use permit may be enlarged or increased in intensity without approval of a new special use permit. The Commissioner of Permit and Inspection Services may, however, allow for an exception to this restriction for the following cases:

1. A minor change due to engineering or other physical site circumstances not foreseen at the time of approval, but encountered during construction.
2. An increase in gross floor area of 10% or less, so long as the increase in gross floor area does not exceed the maximum gross floor area requirement, if any, of the zone in which the project is located.
3. The addition of any accessory structure customarily found in association with the use allowed by the special use permit.

H. Expiration

1. The special use permit expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
2. The Common Council may extend the time for expiration of an approved special use permit for one year upon a showing of good cause by the applicant. A request for extension must be made in writing to the City Clerk within the original period of validity.
3. Any use approved by a special use permit, that ceases operation for a continuous period of one year, will be considered abandoned and the special use permit will thereby expire.

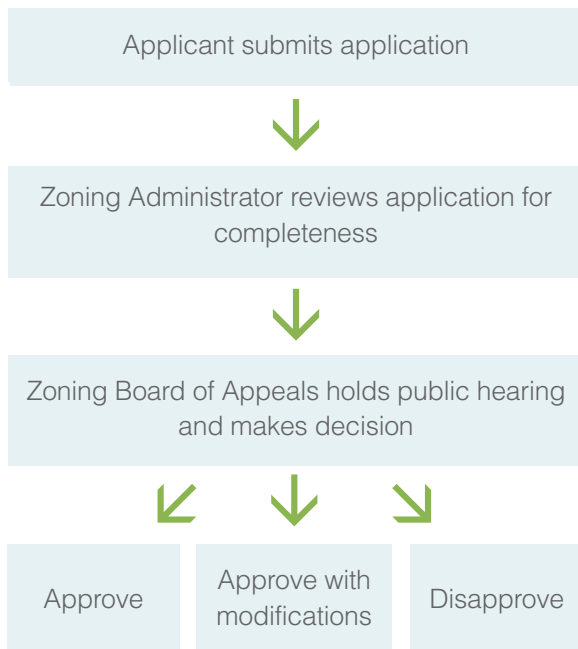
I. Revocation

1. The Common Council may revoke a special use permit after finding that any one of the following has occurred:
 - a. The licenses or permits required for the

operation or maintenance of the use are terminated.

- b.** Any of the provisions of this Ordinance or any of the conditions and restrictions of the special use permit are violated.
- 2.** The Common Council must hold a public hearing to confirm the revocation of the special use permit. Notice for the public hearing is required in accordance with Section 11.2.2, as required for the original approval. The applicant and property owner must be notified of the public hearing. Following the public hearing, the Common Council will make its decision.

ZONING VARIANCE



11.3.5 Zoning Variance

A. Description. A zoning variance allows a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create practical difficulties or particular hardships. There are two types of zoning variance:

1. **Use Variance.** A use variance is the authorization by the Zoning Board of Appeals for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning regulations.
2. **Area Variance.** An area variance is the authorization by the Zoning Board of Appeals for the use of land in a manner that is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

B. Initiation. The property owner, or person expressly authorized by the property owner in writing, may initiate a zoning variance.

C. Authority. The Zoning Board of Appeals must review and take action on zoning variances.

D. Procedure

1. A zoning variance application must be filed, including payment of the applicable fee, with the Zoning Administrator in accordance with the requirements of Section 11.2.1. Once it is determined that the application is complete, the Zoning Administrator must forward the application to the Zoning Board of Appeals.
2. Within 62 days of the determination of completeness, the Zoning Board of Appeals must hold a public hearing on the proposed zoning variance. Notice of the public hearing is required in accordance with Section 11.2.2.
3. Within 62 days of the closing of the public hearing, the Zoning Board of Appeals must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the Zoning Board of Appeals.

E. Approval Standards

1. Use Variance

- a.** No use variance may be granted by the Zoning Board of Appeals without making written findings of fact showing that applicable zoning regulations and restrictions have caused the applicant unnecessary hardship. In order to prove such unnecessary hardship, the applicant must demonstrate to the Zoning Board of Appeals that for each and every allowed use under the zoning regulations for the particular zone where the property is located:
 - i.** The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - ii.** The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the zone or neighborhood;
 - iii.** The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - iv.** The alleged hardship has not been self-created.
- b.** The Zoning Board of Appeals, in the granting of use variances, must grant the minimum variance deemed necessary and adequate to address the unnecessary hardship proved by the applicant and at the same time preserve and protect the character of the neighborhood and the public health, safety, and welfare.

2. Area Variance

- a.** In making its determination, the Zoning Board of Appeals must make written findings of fact that take into account the benefit to the applicant if the variance

is granted as weighed against the detriment to the public health, safety, and welfare by the approval of the variance. In making this determination the Zoning Board of Appeals must also consider:

- i.** Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
- ii.** Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.
- iii.** Whether the requested area variance is substantial.
- iv.** Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zone.
- v.** Whether the alleged difficulty was self-created, which consideration must be relevant to the decision of the Zoning Board of Appeals, but does not necessarily preclude the granting of the variance.
- b.** The Zoning Board of Appeals, in the granting of area variances, must grant the minimum variance that it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

F. Conditions. In granting a zoning variance, the Zoning Board of Appeals may impose reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property.

G. Rehearing. An aggrieved party may petition for a rehearing of a matter on which the Zoning Board

of Appeals has already once made a decision. A motion for the Zoning Board of Appeals to hold a rehearing to review such an order, decision, or determination, not previously reheard, may be made by any member of the Zoning Board of Appeals. Rehearings may only take place as follows:

1. A unanimous vote of all members of the Zoning Board of Appeals then present is required for such rehearing to occur.
2. A rehearing is subject to the same notice provisions as an original hearing.
3. Upon a rehearing, the Zoning Board of Appeals may reverse, modify, or annul its original order, decision, or determination only upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision, or determination will not be prejudiced thereby.

H. Expiration

1. The zoning variance expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
2. The Zoning Board of Appeals may extend the time for expiration of an approved zoning variance for one year upon a showing of good cause by the applicant. A request for extension must be made in writing to the Zoning Administrator within the original period of validity.
3. Any use approved by a variance, that ceases operation for a continuous period of one year, will be considered abandoned and the variance will thereby expire.