

**CHAPTER 1321**  
**SPECIAL DISTRICTS REGULATIONS**  
**NEGOTIATED PLANNED DEVELOPMENT (NPD) DISTRICT**

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**1321.01 PURPOSE OF DISTRICT**

To encourage the appropriate development of large parcels of land which are currently vacant or underutilized. It is in the City's best interest to permit the flexibility necessary to provide for a mixed-use district that would allow residential, retail, office, services, light manufacturing, and other uses as determined by market demand while assuring that such development shall in all respects further the purposes of this Zoning Ordinance and the Comprehensive Plan. Note: the NPD District located in downtown along Buffalo Avenue and the DeVeaux Campus area shall only allow residential development.

The zoning map indicates the designated NPD Districts for the City. While these districts are inclusive for NPD development, they are not limited entirely to these specific areas. Opportunities may arise which create demand for other NPD areas to be designated in the City. The City will remain flexible to establish these districts in areas that warrant such designation.

**1321.02 REZONING TO NEGOTIATED NPD DISTRICTS**

Where NPD techniques are deemed appropriate, the rezoning of land to a NPD District by the City Council replaces the use and dimensional specifications contained elsewhere in this Zoning Ordinance, and subject to the requirements of Section 504

and Chapter 1308 whereby an approved plan becomes the basis for continuing land use controls. Among the specific objectives which are to be achieved through use of NPD techniques are the following:

- Innovations in residential, commercial, and light industrial development, except in the downtown NPD District along Buffalo Avenue and DeVeaux Campus area where only residential development shall be allowed. The DeVeaux Campus area may include education related activities including a conference center.
- More usable open space and recreation areas.
- Preservation of structures, trees, and outstanding natural topographic and geological features, and prevention of soil erosion.
- An increase in choices of housing types available to City residents.
- A more desirable environment than would be possible through the strict application of other provisions of this Zoning Ordinance.

### **1321.03 PERMITTED USES**

No building or premises shall be used, in whole or in part, for any purpose except those specifically permitted by condition of the NPD District, and/or the Comprehensive Plan.

#### **1321.03.1 CHEROKEE BUSINESS PARK**

The purpose of this district to develop the entire district as a mixed-use business park. The (Cherokee Business Park) project would consist of two phases as follows:

- Phase I: Completion of a land development that would ultimately allow the construction of one, 1 story, 35,000-SF buildings.
- Phase II: Further land development that would ultimately allow the construction of up to four additional 35,000-SF buildings.

##### **A. Permitted Uses:**

1. Professional and business offices.
2. Wholesale businesses.
3. Warehouse and storage establishments, provided that all storage occurs within enclosed structures.
4. Manufacture/Fabrication of finished goods such as small machinery, optical goods, boxes and packaging, office supplies and paper products, wood products, etc.
5. Printing and publication establishments.
6. High technology establishments, such as computer servicing and software development.
7. Building, plumbing and electrical contractors.
8. Research and scientific laboratories.
9. Air conditioning, refrigeration and heating sales, service and fabrication.
10. Manufacture and processing of pharmaceutical and cosmetic products.
11. Automobile sales, rental and service operation incidental thereto.
12. Cold storage, beverage distributors establishments.
13. Other uses determined by the Planning Board to be consistent with the nature of permitted uses in the district.

##### **B. Permitted Accessory Uses**

1. Off-street parking and loading.
2. Utility structures associated with and incidental to the development.
3. Structures associated with management and security, such as guardhouses or gatehouses.
4. Telecommunication facilities subject to special permit requirements.

C. Specially Prohibited Uses

1. Residential uses and/or any structure design for permanent or transient occupancy.
2. All adult entertainment uses as determined by Chapter 1332 of the Zoning Ordinance.
3. Junkyards.
4. Large scale storage of flammable or explosive fuels, such as tank farms.
5. Any industrial use, that by its nature, will create a danger or risk of fire/explosion, or otherwise would be offensive or cause unacceptable levels of noise, vibration, smoke, dust, odor, heat, glare or any other objectionable influences.

D. Bulk Requirements

- Minimum lot size: 5 acres
- Maximum building height: 2 stories/30 feet
- Maximum building coverage: 30%
- Minimum buffer to residential use/property: 50 feet
- Minimum buffer along property line/street line: 50 feet

E. Site Plan Review Requirements

Landscaping, screening, lot coverage, parking and loading shall be subject to Site Plan Review, Chapter 1324.

**1321.04 AREA REQUIREMENTS**

The minimum area to qualify for a NPD District shall be 5 contiguous acres. Public roads shall be permitted to divide such acreage provided that a minimum of 2 acres of contiguous land area exists in any portion. In designated urban renewal areas, plans covering lesser acreage may be considered by the Planning Board.

**1321.05 RESIDENTIAL STANDARDS**

The gross density, measured over the entire tract, but exclusive of any land to be occupied by non-residential uses or public or quasi-public institutional or recreational facilities whose use is not limited to the residents of the NPD District, shall not exceed the equivalent of the number of units that are permitted in the Multi-Family Residential District (R-3).

**1321.06 COMMON AREAS AND FACILITIES**

Common areas and facilities in a NPD District is a parcel or parcels of land, together with all improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites or dwelling units.

Where common areas or facilities exist, the owner shall provide for and establish an organization for the continued ownership and maintenance thereof. Such organization shall not be dissolved nor shall it dispose of any common areas or facilities by sale or otherwise.

### **1321.07 SITE AND STRUCTURE REQUIREMENTS**

Lot sizes and dimensions, and structure heights and locations thereon, may be freely disposed and arranged in conformity with the overall density standards set forth herein. In reviewing any application for a NPD District, the Planning Board shall be guided by standards set elsewhere in this Zoning Ordinance for comparable uses, and by common good planning practice, to the end that the resulting development shall be compatible with the surroundings, and to assure the stability of the uses proposed to be developed on the site.

The right-of-way and pavements widths for internal roads serving all development shall be adequate and sufficient in size, location, and design to accommodate the maximum traffic, parking and loading needs and the access of fire fighting equipment and police or emergency vehicles. The pavement of said roads shall be not less than 24 feet wide and shall be subject to all other applicable City ordinances and standards.

All buildings shall be set back a minimum of 50 feet from abutting properties or streets in any residential district. Any non-residential uses within the NPD District must be located so as to be compatible with nearby residential uses.

A buffer strip shall be provided along the property line and along any street line. Said strip shall be at least 50 feet in depth, measured inward from the street line, and shall be suitably landscaped with grass, shrubs, trees, or other ground cover, or such screening as the Planning Board may prescribe. No parking shall be permitted in this area except for commercial development specifically approved by the Planning Board which can deviate to the lot line if it is deemed in the public interest.

Unless otherwise approved by the Planning Board, the maximum building coverage of the site shall be 30 percent.

Unless otherwise approved by the Planning Board, there shall be a minimum open space distance of at least 50 feet between any proposed or existing non-residential parking lot within this district and the nearest existing or proposed residential building within this district. At least 10 feet of this open space shall be suitably landscaped in accordance with Chapter 1331.

The developer shall provide all necessary water and sewer facilities, storm drainage, highway access, paved service streets, parking and loading facilities, and off-street lighting, making reasonable provision for utility service connections with adjoining properties in other ownership. Such proposed improvements shall be subject to review by the Department of Public Works.

It shall be the City's policy to preserve and incorporate into the landscaping the development of natural features, such as streams, rock outcrops, trees, and shrubs. All trees with a diameter of 8 inches or more, measured 3 feet from the base of the tree, shall be preserved to the fullest extent possible, consistent with good design, engineering and reasonable development of the site. Permission to remove any such trees shall be subject to approval by the Planning Board.

All electric, telephone, cable TV, and similar equipment shall be installed underground in accordance with the New York State Public Service Commission regulations.

### **1321.08 APPLICATION PROCEDURE, AND APPROVAL PROCESS FOR SUBMISSION OF A PRELIMINARY SITE PLAN AND REZONING APPLICATION**

In order to allow the Planning Board and the developer to reach an understanding on basic design requirements and the appropriateness of rezoning

at the earliest opportunity, the developer shall submit a preliminary plan of his proposal to the Planning Board with a copy to the Director of Planning and Economic Development. The preliminary plan, which shall be accompanied by a rezoning application, shall be approximately to scale, though it need not be to the precision of a finished engineering drawing, and it shall clearly show the following:

1. The disposition of various land uses and the areas covered by each.

2. The general outline of the interior road system and all existing and proposed rights-of-way and easements, whether public or private.
3. Delineation of the various residential areas if any, indicating the number of dwelling units by each housing type and size, plus a calculation of the density, in dwelling units per acre.
4. The interior common open space system and a statement as to how it is to be owned and maintained.
5. The interior drainage system and how it is proposed to be connected to the drainage systems of adjoining areas.
6. If the development is to be staged, clear indication of how the staging is to proceed.
7. Evidence of how the proposal would meet the planning objectives of the NPD District as set forth in Chapter 1321.
8. Evidence in the applicant's behalf to demonstrate his competence to carry out the plan and his awareness of the financial and organizational scope of such a project.

The Director of Planning and Economic Development shall certify in writing whether or not the application is complete in accordance with the above. The Director of Planning and Economic Development shall act to certify or return the application to the applicant for completion within ten calendar days of receipt by the Director of Planning.

The Planning Board shall review the preliminary site plan and all related documents and shall render either a favorable report to the City Council or an unfavorable report to the applicant within forty-five days following certification by the Director of Planning and Economic Development that all of the necessary application material has been presented. If no report has been rendered after forty-five days, the applicant may proceed as if a favorable report were given to the City Council.

A favorable report to the City Council shall include a summary of the findings of a public hearing held for the purpose of considering the desirability of mapping the subject property as a NPD District. The report shall be based on the following findings, which shall be included as part thereof:

1. The proposal conforms to the Comprehensive Plan of the City of Niagara Falls.
2. The proposal meets the intent and objectives of the NPD District as expressed herein.
3. The proposal is conceptually sound in that it meets community needs in the layout of the proposed roadway system, land use configuration, open space and drainage systems, scale of the elements, both absolute and as they relate to one another; and the proposed uses are of such location, size, and character that, in general, they will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
4. There are adequate public facilities, services, and utilities available or proposed to be made available to serve the development.
5. If there is an unfavorable report with a recommendation to deny the petitions on the preliminary site plan, the Planning Board's statement shall contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and re-submission of the preliminary site plan after it has been revised or redesigned.

### **1321.09 AMENDMENT OF ZONING MAP TO A NPD DISTRICT**

The City Council shall follow referral procedures for zoning amendments outlined in Chapter 1308 of this Zoning Ordinance.

The City Council shall act on the rezoning application within forty-five days of the Planning Board's report or the expiration of the forty-five day limit, whichever comes first. Approval of the NPD District shall be duly noted on the Zoning Map of the City of Niagara Falls.

Zoning districting shall not take effect until final site plan approval has been secured in accordance with the procedures set forth in Chapter 1324 of this Zoning Ordinance.

#### **1321.10APPLICATION FOR FINAL SITE PLAN APPROVAL**

Following rezoning of a property to the NPD District, the applicant shall submit an application for final site plan review in accordance with Chapter 1324 of this Zoning Ordinance.

The application for final site plan shall be made within 12 months from the date of the City Council approval for the rezoning.

The final detailed site plan shall conform substantially to the approved preliminary site plan. It should incorporate any appropriate revisions or other features that may have been recommended by the Planning Board.