

9. Streamlined Zoning, Deozoning, and More

DETAILED TECHNICAL ANALYSIS

CASE STUDY

Downtown Tacoma,
Washington
see Section 9.8

MODEL ORDINANCE

See Section 9.9

Dezoning is an innovative concept that is just beginning to gain attention nationally. The concept underlying dezoning is that zoning regulations are often overly complex, inflexible, and ineffective in achieving good development. As a result, zoning regulations may actually stand in the way of positive change that might naturally evolve through market forces.

Mark Hinshaw, FAICP, an urban planner and designer with LMN Associates in Seattle, is one of the leading national proponents of dezoning.¹ Thus, to date, dezoning has been implemented in two cities in the State of Washington: Bainbridge Island (a small hamlet across the Puget Sound from downtown Seattle) and the City of Tacoma. The work done in those two cities was intended to simplify use regulations and development standards. At the same time, while use and development regulations were loosened up, performance standards were established to ensure environmental protection and in-context design. The intent in both cities was twofold: (1) not to discourage development through excessive red tape; and (2) to encourage a fine-grain pattern of development that would create a vibrant, mixed-use downtown environment.

9.1 SMART GROWTH REGULATIONS AND INCENTIVES

The two core attributes of dezoning (flexible use regulations and strict design regulations) represent a rethinking of zoning in light of neo-traditional planning. Conventional zoning, as it has been designed since the 1920's, encourages the separation of what were characterized as incompatible land uses. The problem with the separation of land uses is that it does not allow for the creation of vital, clustered, mixed-use settlements, where people can live, work, shop, eat out, and take advantage of entertainment and cultural opportunities all within the same general neighborhood while traveling on foot.

Neo-traditional planning or traditional neighborhood design, as discussed in Chapter 6, encourages the mixing together of compatible office, residential, retail and institutional uses in a neighborhood environment. Dezoning is similar to neo-traditional planning, but with less emphasis on thematic design and controlled environments. Traditional neighborhood design envisions the creation of complete neighborhoods, with a balanced mix of housing, professional offices, shops, restaurants, parks and playgrounds, places of worship, and other civic buildings. Dezoning is much more free-form, allowing a variety of uses to evolve flexibly in a designated area over time, as needed, much as would have happened in a city or town prior to modern-day zoning oversight.

The downtown regulations of the City of Tacoma are some of the most simple of any major city in the country. In each of the four downtown districts, a narrow band of uses are either "preferred", "allowable" or "prohibited", as shown in Table 9-1. Preferred uses are defined as

¹ Mark Hinshaw, "Rezone or Dezone: Sometimes It Makes Sense to Start from Scratch," *Planning*, June 2000, pp.13-15.

those “expected to be the predominant use,” although nothing specifically requires those uses to be present. Allowable uses include all those mentioned as “allowable” *plus any other use that is not specifically prohibited*. This provision is a departure from most zoning regulations, which typically prohibit all uses that are not listed. This clause makes the zoning code extremely flexible in terms of land use.

Table 9-1: Use Regulations in Tacoma, Washington

	Downtown Commercial Core	Downtown Mixed Use	Downtown Residential	Warehouse/ Residential
Preferred	- Retail - Office - Hotel - Cultural - Governmental	- Governmental - Educational - Office - Cultural	- Residential	- Residential - Industrial, located entirely in a building
Allowable	- Residential - Industrial, located entirely in a building	- Retail - Residential - Industrial, located entirely in a building	- Retail - Office - Educational	- Retail - Office - Governmental
Prohibited	- Industrial - Drive-through uses not located within a building - Service Stations - Adult retail and entertainment - Heliports - Work release facilities - Jails and correctional facilities - Billboards	- Industrial - Movie theaters with more than 6 screens - Drive-through uses not located within a building ¹ - Service Stations - Adult retail and entertainment - Heliports - Work release facilities - Jails and correctional facilities - Billboards	- Industrial - Movie theaters with more than 6 screens - Adult retail and entertainment - Heliports - Work release facilities - Jails and correctional facilities - Billboards	- Movie theaters with more than 6 screens - Drive-through uses not located within a building ¹ - Adult retail and entertainment - Heliports - Work release facilities - Jails and correctional facilities - Billboards

1. Located within 100 feet of a light rail station.

The development standards for downtown Tacoma are remarkably simple. Only three types of development standards are imposed: floor area ratio (FAR)², building height, and non-residential parking (minimum and maximum). All of these standards are contained in a single half-page table. A few site-specific modifications to those tables are included in the ordinance (i.e., lower building height maximum for the area along Yakima Avenue and west, lower minimum parking in the vicinity of the transit-intensive part of the downtown).

² FAR is defined as the gross floor area of a structure divided by the gross land area of the lot upon which the structure is situated.

The FAR regulations are designed in such a way that they provide an automatic incentive for mixed-use development within buildings. In all downtown districts, separate FAR regulations are implemented for residential and non-residential development. For example, the as-of-right FAR in the Downtown Commercial Core is 3.0 for residential development and 3.0 for non-residential development. According to the regulation table, these FARs can be cumulative. That is, a building with *only* residential use can be total FAR of 3.0, and a building with *only* non-residential use can be a total FAR of 3.0, but a building with *both* residential and non-residential uses can have a maximum of FAR of 6.0. A developer building an office project, therefore, would have a strong incentive to add housing into the mix, because it would allow a doubling of the FAR.

DESIGN STANDARDS AND INCENTIVES

While use regulations and development standards are flexible, design regulations are stringent and are intended to foster a pedestrian-oriented environment. In the Tacoma downtown regulations, the following is required:

1. Screening of rooftop mechanical equipment;
2. Street trees;
3. Perimeter landscaping of parking lots;
4. Pedestrian-friendly facades on the exterior ground level of parking garages;
5. Requirement of retail, restaurant, hotel, cultural, or “public benefit” uses along designated “Primary Pedestrian Streets”;
6. Compliance with requirements for transit-supportive facilities in other parts of the code;
7. A minimum proportion of sidewalk-level facades be dedicated to transparent window and door space;
8. No driveways on designated “Primary Pedestrian Streets”;
9. Additional zone-specific regulations are applied in various different downtown zoning districts.

Tacoma’s design regulations are further strengthened by the fact that the regulations offer floor area bonuses for good design. For example, the base FAR in the Downtown Commercial Core is 6.0, but this can be doubled to 12.0 if the developer is willing to undergo a voluntary design review process. If undergoing voluntary design review, the developer would be required to provide up to four specified design features, such as architectural expression of the building base or crown, enhancement of the pedestrian environment, and the addition of sidewalk-oriented shops and restaurants. The FAR can then be doubled again to 24.0 if other special features are provided, such as publicly accessible plazas and parks, as well as other public amenities.

9.2 COMPLEMENTARY ACTIONS

PERFORMANCE ZONING

Dezoning raises a critical question about livability. If zoning provisions are simplified, how can the municipality maintain enough oversight over new development in order to manage development impacts and protect the city's quality of life? One approach is to couple dezoning with *performance zoning* techniques, which impose quality-of-life regulations and environmental standards upon new development while allowing flexibility in use and development patterns.

There are considerable gains to be won from the use of performance regulations, as discussed below. However, performance zoning techniques do add a layer of regulatory complexity to the zoning regulations. The addition of performance zoning to the regulations may dampen some of the simplifying benefits of dezoning.

What is performance zoning?

Performance zoning was developed in the 1970's and 1980's in reaction to the overly rigid regulatory framework of conventional zoning. A typical zoning ordinance divides up a jurisdiction into separate zoning districts, each of which allows a specified set of land uses, subject to bulk standards and other regulations. This traditional scheme was based upon the basic premise that the separation of unlike land uses (such as industrial and commercial from residential) would protect the public health, safety, and welfare. Nevertheless, while conventional ordinances separate unlike land uses, they often do not manage to prevent off-site impacts, such as might occur on the border between two adjacent zoning districts (for example, a commercial shopping zone and a single-family residential zone).³

Under performance zoning, zoning districts are reduced in number, such that there are more generalized “urban core,” “developing,” and “conservation” districts. Use regulations are also simplified into generalized “use categories,” and all of the uses in the category would be regulated in the same way. For example, the zoning regulations for the Town of West Hartford (a conventional ordinance in many respects) list restaurants, banks, personal services, and other uses separately. In contrast, a model performance zoning ordinance prepared by Lane Kendig for the American Planning Association lumps together commercial uses into two major categories, as follows:

- *Commercial/Entertainment.* “These include animal shelters, auto accessory stores, banks, ... bowling alleys, private indoor clubs, commercial or trade schools ..., currency exchanges, funeral homes, mortuaries, garden supply and/or greenhouses ..., grocery stores and supermarkets, hospitals, hotels ..., ice cream stores or stands, laundries and/or dry cleaners, light mechanical repair stores,... and all other commercial and entertainment uses.”

³ Kendig, Lane; Susan Connor; Cranston Byrd; Judy Heyman. *Performance Zoning*. Chicago: American Planning Association, 1980, pp. 5-11.

- *Commercial/Recreation.* “These uses include amusement parks, drive-in theaters, fairgrounds, golf driving ranges ..., marinas, outdoor theaters ..., race tracks ..., ranges ..., sport arenas, and all other commercial recreation uses.”

This language is intentionally left open-ended, to allow the zoning ordinance to remain flexible over time. New land uses are constantly invented, as economic conditions change and technology evolves, and fashions come and go.

While use regulations are made more flexible, development standards (i.e., maximum floor area ratio, minimum open space ratio, maximum impervious surface percentage) are more rigid. In addition, performance standards are used to protect natural resources, including floodplains, wetlands, steep slopes, woodlands, lakes and ponds, soils, water quality, and so on. Landscaped buffers adjacent to such resources could be required, with the width and vegetation of the buffer tailored to the needs of each resource. Performance standards could also include regulations for landscaping (particularly in parking lots), outdoor lighting, signs, traffic and access, building orientation and design, roadway design, buffering between unlike uses (if appropriate), and the design of parking and loading facilities.⁴ Such regulations can help protect the quality of life in mixed-use areas, thus complementing a de-zoning initiative.

LAND USE CLASSIFICATIONS

Land use classifications are similar in principal to the land use categories used under performance zoning, in that they group individual land uses into generalized categories, resulting in a more flexible regulatory framework. However, the categories under the classification system are not quite so broadly drawn, such that some of the distinctions between uses are maintained. The proposed zoning ordinance update for the City of Milwaukee, Wisconsin, also prepared by Lane Kendig, incorporates such a land use classification system. In that ordinance, which was undergoing public review as of December 2001, commercial and office uses are grouped into the following categories:

- General Office
- Governmental Office
- Bank or Other Financial Institution
- Currency Exchange, Payday Loan, or Title Loan Agency
- Retail Establishment, General
- Garden Supply or Landscaping Center
- Home Improvement Center
- Second-hand Store
- Outdoor Merchandise Sales
- Artist Studio
- Adult Retail Establishment

⁴ Kendig, Lane; Susan Connor; Cranston Byrd; Judy Heyman. *Performance Zoning*. Chicago: American Planning Association, 1980, pp. 99-264.

Each of these categories includes a range of uses, allowing great flexibility in development. At the same time, where distinctions between uses are meaningful, they are called out. For example, the classification “Retail Establishment, General” means any establishment engaged in the retail sale of “new products”, whereas the classification “Adult Retail Establishment” includes any store where sexually oriented merchandise is sold. The distinction between these two use categories reflects the City’s intention to regulate general retail and adult retail uses differently.

The resulting use list under a classification scheme is relatively short, in comparison to the land use lists in many conventional ordinances. The land use regulation table in the City of Hartford's zoning ordinance runs approximately 23 pages, as each land use is individually listed. In many cases, the uses listed in the Hartford code are virtually identical to other uses and could easily be grouped together without sacrificing regulatory precision. The land use table in the Hartford code individually lists “banking and bank-related functions,” “bonding services,” “credit services,” “holding and investment services,” “security and commodity brokers, dealers, exchanges, and services,” “other financial and real estate services,” but each of those uses are regulated in precisely the same manner. In contrast, the Milwaukee zoning code’s land use table runs only 5 pages long. In the Milwaukee code, all of these financial/service uses are grouped into the “General Office” category, because they are virtually identical in nature and function, and there is no need to distinguish between them.

9.3 FISCAL AND ECONOMIC IMPACTS

The fiscal and economic impacts of “de-zoning” are not well known, as the concept is relatively innovative and has only been used in the two Puget Sound cities already cited. Tacoma and Bainbridge Island both experienced a surge of new development proposals in the late 1990’s. However, this trend resulted primarily from the overall trend of regional growth, spurred by the high-tech economic boom. It is unclear to what extent the de-zoned regulations in Tacoma and Bainbridge Island contributed to their growth, if at all.

While de-zoning or performance zoning can allow greater flexibility in use and development, it is unlikely that such tools would be helpful in *generating* growth in and of themselves. In some cases, zoning streamlining has been combined with redevelopment strategies to great effect. For example, in downtown San Francisco, the Yerba Buena redevelopment project was a City-led effort that resulted in the creation of an economic/cultural forum that includes the Moscone Convention Center, the San Francisco Museum of Modern Art, and various other cultural institutions. In addition to being the target of major public investments, the City gave the site a virtual carte blanche in terms of bulk and design standards (i.e., height, setbacks, façade treatments, upper-story step-backs etc.) in order to encourage exceptional architectural design. However, the major drive behind the success of the Yerba Buena project was the combination of public funding, plus the city’s economic boom, which was fueled by the expanding technology industry in Silicon Valley. The de-zoning of the site allowed the creation of distinctive buildings, but was not the sole economic development tool.

To the extent that the zoning provisions allow flexibility of use, developers can potentially experience some cost savings. Developers can reduce the time and expense needed to obtain approvals for conditional use permits, variances, or rezoning, and they could also save time

and expense for site planning, architectural design, and engineering studies, which may otherwise be needed to comply with zoning regulations.⁵ Nevertheless, there is some risk involved with simplifying regulations. Regulations must be carefully construed, such that new development fits into the urban fabric and makes a positive contribution to the municipality's quality of life.

9.4 IMPLEMENTATION STRATEGIES

COMPREHENSIVE ZONING UPDATE

Implementation of de-zoning requires a comprehensive re-examination of the municipality's zoning ordinance. De-zoning is not simply a process of streamlining or editing down the municipality's regulations. Instead, all existing regulations have to be carefully reconsidered, such that decisions can be made about where to add flexibility and where to add more stringent standards that protect the community's quality of life.

Particular attention needs to be paid to potential land use conflicts under a simplified zoning scheme. Residents are particularly concerned with traffic, noise, glare, environmental (air, water, wetland, etc.), and visual impacts. Standards could be incorporated into the zoning regulations in order to lessen those impacts.

Many communities with flexible zoning rely heavily on technical and dimensional standards in order to prevent off-site impacts. For example, in the American Planning Association's model ordinance, the regulations state that "no more than fifteen percent of any mature woodland may be cleared or developed," with the remaining 85 percent maintained as permanent open space. Another example from the same ordinance involves outdoor lighting. Specific standards are established for "maximum permitted illumination," as measured in foot-candles, and as well as standards for the maximum height of the luminaire.

In addition, the American Planning Association ordinance makes extensive use of landscaped buffers between adjacent land uses and districts. Buffering can be effective as a means of separating out adjacent uses that may have negative glare or visual impacts on another. However, buffers are less effective when it comes to noise, traffic, air quality, or other environmental impacts. These factors are better regulated through technical and dimensional standards. For example, a standard regulating noise may indicate the maximum decibel level that can be generated on a property, as measured at the edges of the property. Also, effective buffers may not be feasible in areas with small- to moderate-size lots (i.e., 20 acres or less) and generally would be inappropriate in a compact, mixed-use village setting.

COMPREHENSIVE PLANNING

De-zoning needs to be consistent with the municipality's comprehensive plan. Prior to making any changes to the zoning ordinance, the plan needs to be reexamined. Policies in the plan should explicitly determine how de-zoning can be used to meet the overall planning goals and

⁵ Porter, Douglas R.; Patrick L. Phillips; Terry J. Lassar. *Flexible Zoning: How It Works*. Washington D.C.: Urban Land Institute, 1988, pp. 78-79.

objectives of the municipality. This is a critical step, because it provides direction and focus to the zoning revision.

More importantly, it provides an opportunity to consider the question of fiscal and economic impacts, as discussed in the last section. There is a common perception that simplification of zoning regulations can result in long-term economic growth. It is important to determine what planning goals rezoning can help achieve. For example, rezoning can be an extremely effective tool if the municipality has a downtown, business center, or other commercial environment where the community would like to encourage mixed-use development with innovative or unique design.

9.5 IMPLICATIONS AND RECOMMENDATIONS

In the Hartford region, rezoning could be used in a variety of settings. In suburban and rural areas, the technique could be used to create opportunities for mixed-use development. For example, through simplified use regulations, it would be possible to create the type of village center described in Chapter 4, with a mix of residential, commercial, and public uses. Performance zoning could help protect natural resources, not only floodplains, wetlands, and steep slopes, but also soils and other critical resources.

Urbanized downtown areas and business centers are ideal settings for rezoning. Any rezoning in downtown Hartford or any other business center should be coupled with stringent design and development standards. The dominant trend in both downtown Hartford and the Hartford region is auto-oriented development. With notorious traffic problems and limited transit options, downtown businesses seek to provide free, convenient parking and easy access in and out of the downtown area. Standards would be necessary to encourage a compact, mixed-use, pedestrian-oriented downtown environment.

Because buffers could not be used effectively in an urbanized environment, technical and dimensional standards would have to be utilized in order to control traffic, noise, and glare impacts. How to control traffic impacts, in particular, could be an extremely contentious issue. Several approaches can be considered.

- First, consistent with current practice, maximum floor area ratios (FARs) should be utilized in order to limit the overall density of development, thereby reducing overall traffic generation as well. Allowable development densities can be reconsidered with traffic generation impacts in mind.
- Second, maximum parking ratios can be used to limit the availability of parking, particularly in the vicinity of transit routes and stations.
- Third, FAR and building height incentives for pedestrian amenities and reduced parking can be offered, particularly for sites in proximity to transit or in other pedestrian-intensive areas.

9.6 RESOURCES FOR MORE INFORMATION

REPORTS

Hinshaw, Mark. "Rezone or Dezone? Sometimes It Makes Sense to Start from Scratch." *Planning*. June 2000, pp. 12-15.

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9.8 CASE STUDY: DOWNTOWN TACOMA, WASHINGTON

The City of Tacoma's downtown, already discussed throughout this chapter, provides the most complete example of a dezoning initiative in the United States. As discussed in Section 9.2, there were three key components to Tacoma's dezoning initiative:

- *Flexible Use Regulations*. In each of the four downtown districts, a narrow band of uses are either "preferred", "allowable" or "prohibited". Allowable uses include all those mentioned as "allowable" *plus any other use that is not specifically prohibited*, making the land use regulations extremely flexible.

- *Flexible Development Standards.* Only three types of development standards are imposed: floor area ratio (F.A.R.), building height, and non-residential parking (minimum and maximum). The F.A.R. regulations are designed in such a way that they provide incentives mixed-use development within buildings.
- *Stringent Design Standards and Incentives.* While use regulations and development standards are flexible, design regulations are stringent and are intended to create a pedestrian-oriented environment. The design regulations (described in Section 9.1) are further strengthened by the fact that the regulations offer floor area bonuses for good design.

This section will provide additional background about the Tacoma regulations and assess the impacts of the program.

DOWNTOWN PLAN

The updated zoning regulations for downtown Tacoma were adopted jointly with a downtown plan that was incorporated into the City’s overall comprehensive plan. Like the zoning regulations themselves, the downtown plan is extremely brief and provides a great deal of flexibility in terms of future development. Rather than proscribing a rigid land use or development scheme, the downtown plan has policies that emphasize the type of place that downtown Tacoma is intended to be:

1. Downtown will be a major urban center within the Puget Sound region;
2. Downtown Tacoma will offer a compact concentration of employment, shopping, educational institutions, entertainment, and housing;
3. Downtown Tacoma will be served by a variety of choices in transportation including walking, rail transit, automobiles, and bicycles;
4. Downtown Tacoma will have a safe, convenient, lively, and attractive 24-hour environment.
5. Downtown Tacoma will provide places to live for various types of households with widely varying income levels.
6. Downtown Tacoma will have many forms of publicly accessible open space, such as parks, plazas, waterfront esplanades, tree-lined streets, and community gardens.
7. Downtown Tacoma will build upon its rich collection of handsome, historic buildings to create an environment of distinctive character and quality.
8. Downtown will be a regional destination for artistic, cultural, and visitor attractions.

The vision for Tacoma, in short, is of a place that looks, functions, and feels like a city that evolved prior to the use of “conventional” zoning.

ECONOMIC DEVELOPMENT

The downtown plan does not specifically make reference to economic development, but part of the basis for the rezoning initiative was to attract new investment. Like downtown Hartford, downtown Tacoma was languishing for many years. Much of its downtown office

and warehouse space lay vacant, and there were few major businesses remaining as of the mid-1990s. As a result, the City decided to make economic development its top priority.

There were a number of major public investments in the downtown area, starting in the 1990's. The City worked with regional transit authorities to improve transit service and plan a new light rail line, which is currently under construction. In addition, the City established a development authority to transform the abandoned industrial waterfront into a mix of cultural and industrial attractions. This authority:

- Cleaned up a number of contaminated development sites in order to attract investment;
- Convinced the University of Washington to take over several abandoned warehouses and to convert them into a branch campus; and
- Worked on initiatives to build a new art museum and develop a new convention center and hotel.

Throughout the downtown area, the City is working with local non-profit organizations and developers to sponsor the development of affordable housing.⁶ The City also made a \$100 million investment toward the development of a fiber optic network, creating the largest municipally owned network in the country.⁷ At the same time, the City's new "de zoned" regulations were considered and adopted in 1999.

By 2001, several new private-sector development projects, valued at approximately \$250 million, were being planned for downtown Tacoma, including three large multi-family residential projects that will add 650 housing units to the downtown area.⁸ It is uncertain whether the new zoning regulations or the various public improvements were the major motivating factor behind new private investment, but both factors seemed to play a role. According to Mark Hinshaw, one of the consultants who prepared the simplified regulations, six major development projects were proposed soon after adoption of the new regulations.⁹

IMPROVING THE CITY'S IMAGE

Through the mid-1990's, downtown Tacoma had a bad image as a flailing area, with vacant buildings, few businesses, and little hope for the future. Tacoma's name brought to mind blight and disinvestment and it attracted little office development and virtually no housing development throughout the 1980's and 1990's. Developers and investors interested the Puget Sound region gravitated toward Seattle, Bellevue, and the surrounding suburbs instead.

The City undertook a number of initiatives in order to improve its image and create a pro-business climate since the mid-1990s. The City worked with the Chamber of Commerce to promote positive images of Tacoma in the media, making sure, for example, that news pieces on regional technology made reference to Tacoma's \$100 million investment in a fiber optic

⁶ Telephone conversation with Mark Hinshaw, LMN Architects, December 4, 2001. Mark Hinshaw, "Rezone or Dezone: Sometimes It Makes Sense to Start from Scratch," *Planning*, June 2000, pp. 13-15.

⁷ Telephone conversation with Donna Stenger, Urban Planner, City of Tacoma, December 4, 2001.

⁸ Telephone conversation with Donna Stenger, Urban Planner, City of Tacoma, December 4, 2001.

⁹ Telephone conversation with Mark Hinshaw, LMN Architects, December 4, 2001.

network. Also, the City heavily promoted its efforts to clean up the industrial waterfront and bring light rail into the downtown area.

The City expanded this public relations campaign to the “dezoning” program. When the new zoning regulations were undergoing public review, the City actively marketed the streamlined regulations to the development community. Developers were impressed by the increased flexibility allowed under the new regulations and the prospect of reducing attorney and architect fees often necessary to interpret complex codes. By heavily promoting its dezoning initiative, as well as its redevelopment projects and public investments, the City started to change its image from a decaying factory town to a pro-business city on the cutting edge of innovation and development. According to Tacoma Planner Donna Stenger, the success of dezoning in Tacoma was not simply that it reduced potential development costs, but that it communicated to the development community and the media that the City was serious about economic development.¹⁰

PARKING

The City created a municipal parking authority in the downtown area, which owns and operates several public parking lots and garages. This public parking supply serves downtown retail establishments and other businesses and provides spillover space for downtown office and residential uses. The new zoning regulations impose maximum parking ratios on private development sites, meaning that the supply of private parking lots and garages is constrained. With smaller private lots, more land can be dedicated to development.

QUALITY OF LIFE ISSUES

Downtown Tacoma has generally had a good experience with the new development projects that have been planned and build in recent years. However, one project proposed in 2000 generated objections from residents with regard to some of the design features, particularly the canopies provided for weather protection over the sidewalk. Sidewalk canopies are considered critical in the Puget Sound for maintaining and encouraging pedestrian activity, because of the rainy climate.

Although the project’s developer provided the necessary canopies, they were only two feet in width. The canopies were compliant with the technical requirements of the code, but they were so narrow that they failed to provide the kind of weather protection originally envisioned by the downtown plan. The zoning regulations do not contain provisions specifying the dimensions necessary for canopies, and such specific provisions were omitted in order to simplify the code. Subsequent to this controversy, the design regulations in the zoning code were amended to include more specific language for a number of design requirements.¹¹

The problem with the canopies may have been averted if formal design review had been required for all downtown development projects. Currently, the code requires design review in conjunction with projects that are seeking to exceed the base floor area ratio (FAR). Design review would have allowed a reviewing body to determine whether the proposed canopies had

¹⁰ Telephone conversation with Donna Stenger, Urban Planner, City of Tacoma, December 4, 2001.

¹¹ Telephone conversation with Mark Hinshaw, LMN Architects, December 4, 2001.

been consistent with the spirit of the ordinance. Because the canopies were intended to provide weather protection, design review may have determined that two-foot wide canopies were inadequate for this purpose.

According to Tacoma Planner Donna Stenger, the simplified zoning provisions are not necessarily intended to be permanent. The City recognizes that in some ways, the simplified regulations may need to be made more stringent in the future, if land use conflicts or other problems arise. De zoning was regarded as one tool among many to spark investment in downtown, and it could be phased out if it no longer helps the City meet its economic development and land use goals.¹²

9.9 MODEL ORDINANCE

A “de zoned” ordinance adopted in an urban environment would be different in substance from an ordinance adopted in a suburban or rural village. Use mixtures, however, would generally be the same. Retail stores, restaurants, offices, residences, public institutions, and park/recreational uses could be mixed, as they can be woven together into neighborhoods where people live, work and play. Industrial, warehouse, and most auto-oriented services (repair shops, body shops, car dealerships) would be separated out, due to their typically greater environmental impacts and auto-orientation.

USE REGULATIONS

The use regulations for a “de zoned” area should be streamlined to allow maximum flexibility. However, development standards, design regulations, and environmental standards should be used to ensure that commercial, residential, office, and institutional development would all fit in with one another.

Because these regulations would allow so much flexibility in use, the boundaries of de zoned area should be drawn to include only those areas that could feasibly accommodate a fine-grain mix of uses. Adopting a flexible regulatory scheme in one part of a municipality by no means suggests that it would be appropriate everywhere. Even in Tacoma, where de zoning has been employed most extensively, only the downtown area was targeted for zoning simplification. Downtown areas, business centers, and villages are the ideal places for de zoning, as these locations are well suited to compact mixed-use development, and where there is typically greater street life.

DEVELOPMENT STANDARDS

The question for any municipality considering de zoning is what basic standards are absolutely essential, and which others can be eliminated. The following, in almost all cases, will be need to be retained:

- *Maximum Residential Density and Non-residential Floor Area Ratio.* These provisions are necessary in order to limit the overall quantity of development, which

¹² Telephone conversation with Donna Stenger, Urban Planner, City of Tacoma, December 4, 2001.

helps limit impacts on public infrastructure, including roads, sewers, water supplies, as well as natural resources, such as wetlands and steep slopes.

- *Maximum Height.* This provision is necessary, again, in order to allow some control over the maximum buildable building size, as well as to limit shadow impacts from very tall structures.
- *Maximum Lot Coverage.* This provision is necessary from an environmental point of view, in order to prevent excessive paving or development of a lot, which could complicate stormwater runoff and exacerbate erosion and flooding in other locations.
- *Minimum Rear Setback.* Although front and side setbacks may not be necessary (particularly in a compact, mixed-use, pedestrian-oriented environment), rear setbacks are typically needed in order to allow a basic amount of air and light into properties from the rear. If buildings on adjacent lots all were built to the side and rear lot lines, each would be boxed in, having access to light and air only from the front wall.
- *Maximum Upper-Floor Stepbacks.* These provisions help prevent egregious shadow impacts on neighboring buildings and surrounding streets by limiting the bulk to the upper floors of multi-story buildings.

DESIGN STANDARDS

A wide range of design standards can be considered for “dezoned” areas, focusing on the creation of an attractive visual environment and a safe, comfortable, and convenient pedestrian realm. The following design features should be required:

- *Orientation of Building to Street.* Minimum proportion of the front building façade would have to be located at the front property line; Requirement that the main building entrance be located from the sidewalk in the public right-of-way.
- *Location of Parking Lot Away from the Pedestrian Realm.* Requirement that parking lots be located to the side or to the rear of structures, not between the structure and the street; Requirement that no parking lot be located at the intersection of any two public right-of-ways.
- *Location of Driveways.* Requirement that driveway not be located on a designated “pedestrian” street wherever feasible.
- *Retail Frontage.* Minimum proportion of the linear feet of the roadway frontage of a building should have retail, restaurant, or institutional use, where each individual use is accessed from the street; Variations in the requirement can be drawn between designed “pedestrian” streets and other streets.
- *Provision of Street Trees.* Minimum size; minimum number per street frontage.
- *Landscaping in Parking Lots.* Perimeter strip of a minimum width, typically 3 to 5 feet; Minimum percentage of parking lot surface dotted with landscaping islands; Maximum number of parking spaces that can be placed side by side without a landscaping island.
- *Screening of Mechanical Equipment.* Regulation should specify the type of material acceptable or unacceptable. For example, visually permeable fences would be prohibited, but other walls, barriers, or shrubbery would be permitted.

These represent the most basic requirements for application to all properties within the “de zoned” area. They are essential to the creation of a compact, mixed-use, pedestrian-oriented environment. Additional requirements regulating the architectural proportions or details of building can be considered, as well as requirements for pedestrian amenities, such as street lighting, benches, and so on. Some of these features could also be the basis for FAR incentives. That is, for the provision of a pedestrian amenity such as a public plaza, additional FAR could be offered.

ENVIRONMENTAL STANDARDS

Environmental standards can be extremely detailed and complex. Not only must they be consistent with federal and state regulations, but they must be responsive to the unique conditions in the “de zoned” area. Environmental regulations are particularly critical in developing rural and suburban areas, where important natural resources may be at risk.

It would be beyond the scope of this chapter to list and discuss all possible environmental regulations. Some of the major resources that need to be protected in the regulations include: wetlands, mature woodlands, water quality, habitat areas for endangered or threatened species, steep slopes, floodplains, prime soils, and so on. Nowadays, many municipalities have adopted a wide range of environmental regulations that are both up to date and current with state and federal regulations. Many of these existing regulations can be used and applied to development in the “de zoned” area, as necessary and applicable.

LANGUAGE FOR A MODEL "DEZONING" ORDINANCE

A de zoning ordinance would require more than a simple amendment to existing regulations. It would entail a significant rewriting of existing regulations, and the rewriting would require important policy decisions regarding what zoning provisions are preserved and which are excised.

Article I: Use and Development Regulations for Business Center Zones

Section 101: Purpose

Consistent with the State's zoning enabling legislation (Conn. Gen. Stat. § 8-2), the purposes of this Article are as follows:

- A. To reduce regulatory and procedural burdens on applicants applying for required zoning and building permits, particularly in the City/Town's business centers.
- B. To further stimulate economic growth in the City/Town's business centers by eliminating regulatory and procedural barriers to development.
- C. To promote a vibrant, mixed-use, and pedestrian-friendly environment in the business centers — with safe and attractive streets, transit facilities, community facilities, parks, and public spaces — such that the business centers serve as the economic, cultural, and social centers of community life.
- D. To promote a high standard of architectural design and aesthetics.

- E. To encourage new development to be designed such that it fits into the historic pattern of uses and buildings.
- F. To encourage new development to be designed with sensitivity toward the natural environment and the natural scenery.

Section 102: Intent

In order to achieve the purposes stated in § 101 above, this ordinance introduces new use, bulk, and design regulations for business zones in the City/Town of _____. More specifically, the ordinance:

- A. Replaces lengthy, complicated lists of permitted and prohibited uses with brief, simplified descriptions of permitted use categories.
- B. Reduces and simplifies development regulations, which regulate bulk, height, setbacks, and other dimensional characteristics of buildings.
- C. Imposes new design standards intended to foster a well-designed, aesthetically pleasing, pedestrian-friendly environment in the business centers.
- D. Continues to impose other development and environmental standards, as appropriate, in order to protect the health, safety, and welfare of the people of the City/Town.

Section 103: Definitions

Commentary: Some new definitions may need to be added to the ordinance in conjunction with this ordinance, or some existing definitions may need to be revised. In particular, all of the uses included in the Schedule of Use Regulations in § 106 would have to be clearly defined. Definitions for a few of uses that appear in that section are described below.

- A. *Auto-Oriented Uses.* Any use that provides services primarily related to automobiles and motorists. These include, but are not limited to, automobile repair shops, car sales lots, car washes, and gas stations.
- B. *Drive-through Uses.* Any use that includes a service window that allows patrons to drive up and to be served in their cars. These include, but are not limited to, drive-through banks and drive-through fast-food restaurants.
- C. *Home Occupation.* A business that is operated out of a dwelling, that functions as an accessory use to the residential use and that serves as a workplace for at least one resident of the premises.

Commentary: One policy decision for the local municipality is to determine whether additional employees who live off-site would be allowed work out of someone's home.

- D. *Industrial.* An establishment engaged in any form of processing, fabrication, treatment, assembly packaging or storage that does not meet the definition of "light industry" as defined in § 103.

- E. *Light Industrial*. An establishment engaged in the assembly, packaging, storage, and distribution of products from finished products or parts, and which results in little or no impact on the natural environment.

Section 104: Establishment of Business Center Zones

The location of the Business Center Zones shall be as shown on the attached map. There are three subdistricts indicated on the map: Business Center 1 (BC-1); Business Center 2 (BC-2); and Business Center 3 (BC-3). In addition, the map identifies Pedestrian-oriented Streets.

Commentary: This map is necessary if — in conjunction with the changes to the use, development and design standards — the City/Town has redrawn the boundaries of existing business center zones. The Business Center Zones are intended primarily for downtown or village environments, with the potential for moderate-to-high densities of development, the ability to create a mixed-use, pedestrian-oriented environment, and the ability to absorb growth.

This suggests that the business center should have available land for new development, ready infrastructure (i.e., sewers), and good access. Generally, it would not be well-suited to highway business corridors, shopping centers, or neighborhood business districts, which tend to be smaller in scale, retail-dominated, and primarily auto-oriented. It could be suitable for a suburban business park, depending on the characteristics of the area, and if the City/Town has established a goal of promoting a mix of uses in that location.

Pedestrian-oriented streets are identified on the map as well, so that special design standards — particularly conducive to pedestrian activity — can be required for development along those streets.

Section 105: General Regulations for the Business Center Zones

A. Business Center 1 (BC-1).

1. *Purpose*. The BC-1 Zone is intended to serve as a high-intensity node for office, residential, retail, hospitality, entertainment, institutional, and cultural uses. The BC-1 Zone should be the economic, cultural, and social center of the community.
2. *Permitted Uses*. Permitted uses shall be in accordance with the use schedule in § 106.
3. *Development Standards*. Permitted development shall be in accordance with the development standards schedule in § 107.
4. *Off-Street Parking and Loading*. Development shall provide off-street parking and loading in accordance with the provisions of § xxx.

Commentary: The "§ xxx" reference is intended to refer to the existing section of the zoning code that addresses parking. Those parking provisions may need to be updated to be consistent with a compact business center environment. Provisions that should be considered include: 1) reduced parking requirements; 2) shared parking agreements; 3) incentives for underground parking; 4) improved landscaping standards for parking lots. Refer to Chapter 5 for model parking regulations for a

pedestrian-oriented neighborhood shopping district. Refer also to Chapter 8 for sample shared parking provisions.

5. *Signs.* Signs are permitted in accordance with the provisions of § xxx.

Commentary: The "§ xxx" reference is intended to refer to the existing section of the zoning code that addresses signage. Those sign regulations may need to be updated to ensure that signage is consistent with a compact, mixed-use, pedestrian-oriented environment. Refer to Chapter 7 for sample "Main Street" sign regulations from the Town of Niskayuna, NY. Refer also to Chapter 5 for model sign regulations for a pedestrian-oriented neighborhood shopping district.

6. *Performance Standards.* Permitted uses shall be in accordance with the performance standards in § 108.
7. *Design Standards.* Permitted uses shall be in accordance with the design standards in § 109.

B. Business Center 2 (BC-2).

1. *Purpose.* The BC-2 District is intended to serve as a moderate- to high-density residential neighborhood with supportive retail and institutional uses and abundant park space. Strong pedestrian linkages and pedestrian-friendly design should foster pedestrian activity between the BC-2 and BC-1 zones.
2. *Permitted Uses.* Permitted uses shall be in accordance with the use schedule in § 106.
3. *Development Standards.* Permitted development shall be in accordance with the development standards schedule in § 107.
4. *Off-Street Parking and Loading.* Development shall provide off-street parking and loading in accordance with the provisions of § xxx.

Commentary: The "§ xxx" reference is intended to refer to the existing section of the zoning code that addresses parking. Those parking provisions may need to be updated to be consistent with a compact business center environment. Provisions that should be considered include: 1) reduced parking requirements; 2) shared parking agreements; 3) incentives for underground parking; 4) improved landscaping standards for parking lots. Refer to Chapter 5 for model parking regulations for a pedestrian-oriented neighborhood shopping district. Refer also to Chapter 8 for sample shared parking provisions.

5. *Signs.* Signs are permitted in accordance with the provisions of § xxx.

Commentary: The "§ xxx" reference is intended to refer to the existing section of the zoning code that addresses signage. Those sign regulations may need to be updated to ensure that signage is consistent with a compact, mixed-use, pedestrian-oriented environment. Refer to Chapter 7 for sample "Main Street" sign regulations from the Town of Niskayuna, NY. Refer also to Chapter 5 for model sign regulations for a pedestrian-oriented neighborhood shopping district.

6. *Performance Standards.* Permitted uses shall be in accordance with the performance standards in § 108.
7. *Design Standards.* Permitted uses shall be in accordance with the design standards in § 109.

C. Business Center 3 (BC-3).

1. *Purpose.* The BC-3 District is intended to provide a location for warehouse and light industrial uses that support the businesses in the BC-1 Zone. Although truck access in and out of this area should be facilitated, trucks should be discouraged from traveling through the BC-1 or BC-2 Zones, and strong pedestrian linkages should be provided between the BC-3 and BC-1 Zones.
2. *Permitted Uses.* Permitted uses shall be in accordance with the use schedule in § 106.
3. *Development Standards.* Permitted development shall be in accordance with the development standards schedule in § 107.
4. *Off-Street Parking and Loading.* Development shall provide off-street parking and loading in accordance with the provisions of § xxx.

Commentary: The "§ xxx" reference is intended to refer to the existing section of the zoning code that addresses parking. Those parking provisions may need to be updated to be consistent with a compact business center environment. Provisions that should be considered include: 1) reduced parking requirements; 2) shared parking agreements; 3) incentives for underground parking; 4) improved landscaping standards for parking lots. Refer to Chapter 5 for model parking regulations for a pedestrian-oriented neighborhood shopping district. Refer also to Chapter 8 for sample shared parking provisions.

5. *Signs.* Signs are permitted in accordance with the provisions of § xxx.

Commentary: The "§ xxx" reference is intended to refer to the existing section of the zoning code that addresses signage. Those sign regulations may need to be updated to ensure that signage is consistent with a compact, mixed-use, pedestrian-oriented environment. Refer to Chapter 7 for sample "Main Street" sign regulations from the Town of Niskayuna, NY. Refer also to Chapter 5 for model sign regulations for a pedestrian-oriented neighborhood shopping district.

6. *Performance Standards.* Permitted uses shall be in accordance with the performance standards in § 108.
7. *Design Standards.* Permitted uses shall be in accordance with the design standards in § 109.

Section 106: Schedule of Use Regulations

The schedule indicates uses that would be permitted as of right, permitted subject to approval of a Special Permit, and prohibited. Uses permitted as of right are divided into two subcategories: *Preferred* and *Allowed*. The *Allowed* subcategory indicates that the use is

permissible, even though it is not the primary use intended for the district. All uses not listed would be prohibited.

Commentary: For the purposes of this model ordinance, the uses listed in the table are intended to have a "common sense" definition. The specific definition for a use, per the zoning ordinance's listed definitions, can influence the interpretation of the use regulations. For example, the definition of "light industrial" would determine whether a proposed factory would or would not be permitted. Definitions may need to be updated to ensure that the use regulations are interpreted in the manner intended.

	BC-1 (Commercial Core)	BC-2 (Residential Neighborhood)	BC-3 (Warehouse and Light Industrial)
Permitted as of Right, Preferred	- Office - Retail - Restaurants - Cultural - Institutional - Hotel/Conference - Entertainment	- Residential - Retail - Institutional - Parks - Places of Worship	- Warehouse - Light Industrial
Permitted as of Right, Allowed	- Residential - Parks - Places of Worship - Other Compatible Uses(1)	- Office - Restaurants - Cultural - Other Compatible Uses(1)	- Institutional - Retail - Restaurants - Office - Parks - Other Compatible Uses(1)
Permitted by Special Permit	- Bars - Home Occupations	- Bars - Entertainment - Home Occupations	- Residential - Outdoor Storage - Bars - Entertainment - Home Occupations
Prohibited	- Industrial - Warehouse - Major utilities - Drive-through uses - Auto-oriented uses - Adult retail and entertainment - Outdoor Storage - Jails or correctional facilities	- Industrial - Warehouse - Major utilities - Drive-through uses - Auto-oriented uses - Adult retail and entertainment - Outdoor Storage - Jails or correctional facilities - Hotel/Conference	- Heavy Industrial - Major utilities - Adult retail and entertainment - Jails or correctional facilities - Hotel/Conference - Places of Worship

(1) Uses are deemed to be compatible if they meet the performance standards in § 108.

Although the Tacoma ordinance eliminated the category of Special Permit uses, they are retained in this model ordinance. Some uses may be appropriate for the Business Center Zones, depending upon the particular characteristics of the use. Discretionary review allows

the City/Town Planning Board to impose conditions of approval upon these unique uses in order to ensure that they fit into their surroundings.

Also, whereas the Tacoma ordinance permits all uses that are not specifically prohibited, that same approach is not recommended herein, because it cannot adequately prevent unforeseeable and potentially incompatible future uses from being built in the business center. The regulations remain flexible by allowing "other compatible uses" as of right. As noted, uses are deemed to be compatible if they meet the performance standards in § 108.

Section 107: Schedule of Development Regulations

Commentary: Development regulations should address only the most basic aspects of building massing. Floor Area Ratio (FAR) and Building Height restrictions are necessary to limit the overall size of the structure. Maximum Lot Coverage is necessary in order to prevent excessive impervious surfaces, which could result in drainage and flooding problems. Building Height, Rear Setback, and Upper -floor Footprint requirements help ensure adequate light and air on all sides of the building and on adjacent properties. The Maximum Upper-floor Footprint is an innovative technique that simulates the effect of sky-plane requirements (adopted by some cities to prevent bulky towers from casting large shadows) but in a much simpler way.

	BC-1 (Commercial Core)	BC-2 (Residential Neighborhood)	BC-3 (Warehouse and Light Industrial)
Maximum Floor Area Ratio (FAR)	**	**	**
- FAR Bonus, as a percentage of Maximum FAR, subject to § 110	150%	150%	n.a.
Maximum Building Height (ft)	**	**	**
Maximum Lot Coverage (ft)	**	**	**
Minimum Rear Setback (ft)	**	**	**
Maximum Upper-floor Footprint, as a percentage of the ground- floor footprint			
- 10 th to 24 th floors	40-60%	40-60%	generally, n.a.
- 25 th floor and higher	30-50%	30-50%	generally, n.a.

*** Model numbers are NOT provided for these standards, because they would have to be tailored to existing conditions and infrastructure capacities of each location. A study of existing buildings in each of the Business Center Zones could be undertaken in order to determine what might be the appropriate numbers.*

Section 108: Performance Standards

This section is intended to include environmental performance standards that would protect the basic health and safety of people in the business center. These standards are the minimum necessary and would not be expected to complicate most development applications, i.e. for

residential or office development. They would mainly come into play in the case of an application for industrial development or a major utility project, i.e., a power plant or solid waste processing facility, which could have the potential for environmental impacts that would compromise the health and safety of the area. Below are some examples of typical environmental standards that are used to limit environmental impacts from industrial uses and major utilities. These particular examples were adapted from the land use regulations for the Town of North East, NY. Using these examples as a starting point, each municipality should tailor the performance standards to suit their own circumstances.

- A. No use or structure shall be permitted in a Business Center Zone that:
1. Constitutes a fire hazard; or
 2. Is detrimental to the health or safety of individuals on neighboring properties; or
 3. Entails the use or storage of substances or devices that emit any radiation or radioactive material; or
 4. Results in the discharge of waste of any kind into any reservoir, pond, pool, stream, or other body of surface water; or
 5. Results in the discharge of effluent to groundwater or surface water that contains any acid, oil, dust, toxic metal, corrosive, or other toxic substance, whether in solution or in suspension; or
 6. Results in the discharge of effluent to groundwater or surface water that creates odors or discoloration or would poison or otherwise pollute the groundwater or surface water.
- B. No use or structure shall be permitted in a Business Center Zone that constitutes a "nuisance" as defined in paragraphs C through I below.
- C. *Noise.* It shall constitute a nuisance for any individual, group, or organization to allow the emission of measurable noises, as measured at the individual property lines, to exceed 70 decibels during the period between 6:00 a.m. and 10:00 p.m., or 60 decibels between 10:00 p.m. and 6:00 a.m.
- D. *Smoke.* It shall constitute a nuisance for any individual, group, or organization to allow the emission of smoke from any source of a density equal to or greater than that density described as No. 2 on the Ringelmann Chart as published by the U.S. Bureau of Mines.
- E. *Odor.* It shall constitute a nuisance for any individual, group, or organization to allow the emission of any odor that, as measured at the individual property line, offensively affects the sense of smell.
- F. *Particulate Matter.* The rate of emission of particulate matter from all uses within the boundaries of any lot shall not exceed a net figure of two pounds per hour per acre, of which no more than ten percent (10%) by weight of particles larger than forty-four (44) microns three hundred twenty-five (325) mesh shall be allowed.
- G. *Noxious Gases.* It shall constitute a nuisance for any individual, group, or organization to allow the escape of noxious acids, fumes, or gases in such quantities and concentration as

to endanger the health, comfort, and safety of any individual on a neighboring site or to cause damage to property, business, or vegetation.

- H. *Glare*. It shall constitute a nuisance for any individual, group, or organization to permit the edge of the beam of any artificial light source to cross the boundary line of the lot on which this light source is situated. For this purpose, the edge of the beam is defined as the surface at which the intensity of light does not exceed ten percent (10%) of the luminescence of the center of the beam.
- I. *Vibration*. It shall constitute a nuisance for any individual, group, or organization to generate any vibration that is discernible to the human sense of feeling at the individual property lines.

Section 109: Design Standards

Commentary: As discussed in § 104, Pedestrian-oriented Streets are identified on the zoning map, and through the regulations in this section, pedestrian-oriented design standards are required for buildings along those streets. These standards are the minimum necessary to foster a pedestrian-oriented environment. Additional regulations, particularly with regard to lighting, signage, and parking may be appropriate. For lighting, signage, and parking standards appropriate to pedestrian-oriented areas, please refer to Chapters 6 and 7.

All development in the Business Center Zones shall comply with the following design standards, without exception:

- A. All outdoor mechanical equipment shall be fully screened from view. Rooftop mechanical equipment shall be screened by means of a parapet wall or a sloped or stepped roof form that is part of the architecture of the building. Ground-mounted or wall-mounted mechanical equipment shall be fully screened by evergreen plantings and/or opaque fencing.
- B. The main entrance of any building shall face the street. In the case of a corner lot, the main entrance shall face the Pedestrian-oriented Street, if applicable, or else, it shall face the street along which the lot has the longer frontage. The main entrance shall not be setback more than 25 feet from the street property line.
- C. A minimum of 75 percent of the sidewalk level building facades shall abut the street property lines. The setback(s) can only be used for entrance areas, public plazas, mini-parks, or landscaping.
- D. A least 25 percent of the linear, sidewalk-level frontage of any structure fronting on a Pedestrian-oriented Street shall consist of retail uses, restaurants, cultural uses, entertainment uses, hotel entrances, or institutional uses.
- E. There shall be at least one entrance directly from the sidewalk for every 100 feet of the linear sidewalk-level frontage of any structure fronting on a Pedestrian-oriented Street.
- F. Any sidewalk level façade that faces a Pedestrian-oriented Street shall have a least 25 percent of the wall area in the form of transparent windows or doors.

- G. Weather protection in the form of canopies, awnings, or marquees shall be provided along at least 75 percent of the street frontage facing a Pedestrian-oriented Street.
- H. Along any frontage facing a Pedestrian-oriented Street, no fewer than 4 street trees shall be provided for every 100 linear feet of building frontage. Street trees shall be continually maintained by the property owner in perpetuity, and in case of death, any dead tree shall be replaced with a like tree by the property owner, unless an alternative arrangement is agreed to by both the City/Town and the property owner.
- I. Wherever feasible, driveways and parking garage entrances shall not be built on Pedestrian-oriented Streets. The maximum width of a driveway or garage entrance on a Pedestrian-oriented Street shall be 25 feet. All driveways and garage entrances on a Pedestrian-oriented Street shall be equipped with audible warning signals to announce exiting vehicles.
- J. All surface parking lots shall provide a perimeter landscaping strip around the edges of the entire lot. The landscaping strip shall contain no fewer than 4 trees for every 100 linear feet of frontage of the landscaping strip, as well as shrubs. In addition, a wall or decorative fence measuring 2.5 to 4.0 feet in height, as measured from grade, may be added to the landscaping strip.
- K. For surface parking lots greater than 20 spaces, at least 15 percent of the interior area shall be planted with trees and shrubs.
 - 1. Each planting area shall be a minimum of 25 square feet in size and have no dimension less than 5 feet.
 - 2. Each planting area shall have at least one tree.
 - 3. No row of parking shall be more than 10 spaces wide without being interrupted by a planting area.

Section 110: FAR Bonus

- A. Consistent with § 107, a proposed project in the BC-1 or BC-2 zone shall be allowed to exceed the “Maximum FAR,” if the project includes one of the following:
 - 1. Underground parking for all parking spaces provided on the site.
 - 2. Preservation, restoration, and adaptive reuse of one or more historic structures on the site.
 - 3. An outdoor plaza or park accessible to the general public at all times.
- B. For each feature provided pursuant to paragraph (A) above, the allowable FAR shall be increased by 50% above the maximum FAR indicated in § 107. In no case shall the total allowable FAR exceed the maximum FAR by more than 150 percent.
- C. To qualify for an increase in allowable FAR above the maximum, the project shall undergo design review by the Planning Board or an advisory body appointed by the Planning Board.

Commentary: Design review standards should be established in order to provide the Planning Board or the advisory body with criteria to consider during the review process.

Section 111: Other Applicable Standards and Requirements

All development in the Business Center Zones shall comply with:

- A. Appropriate City/Town, State, and federal environmental standards, regulations, and procedures.
- B. All other applicable standards and requirements, as determined by the City/Town Council.

Section 112: Severability

If any provision of this ordinance is held invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be invalidated.