

**Downtown (DD) District.**

**A. Purpose.** The purpose of the Downtown District is to create a vibrant downtown with a variety of building types that offer retail, service, employment, hospitality, entertainment, and civic functions, as well as a variety of housing choices. This district aims to reinforce the walkability of the downtown and increase density.

**1) Introduction.** This section provides regulatory standards governing land use and building form within the Downtown District. The code reflects the community's vision for downtown Fulton and implements the intent of the Comprehensive Plan, Local Waterfront Revitalization Plan, and Downtown Revitalization Initiative Strategic Investment Plan. The code is intended for adoption as part of the Fulton Zoning Ordinance. Upon adoption, it will supersede and replace existing Zoning provisions regarding zoning districts, allowable land uses, permit requirements, and site development standards unless otherwise noted. The Downtown District includes all property within the following boundaries: Oneida Street to the north, properties west of 2nd Street right of way to the west, Route 3 to the south, and the Canal to the east, except for properties located south of Rochester Street and north of Route 3 and between S 1st Street and the Canal which are zoned **Mixed Residential (R-3A)**.

**2) Table of Land Uses and Definitions.**

P – Permitted Use

S – Use subject to Special Use Permit

T – Temporary use permitted with Temporary Use Permit

X – Prohibited use in zone

*Table of Downtown District Land Uses*

Use	DD	Add. Regulations
Alcoholic beverage production and sales	P	
Animal Hospital	X	
Automotive Repair	X	
Bar	P	
Bed and Breakfast or Inn	P	
Botanical Garden	P	
Carwash	X	
Check Cashing Service	X	
Church	P	
Cigar Lounge	X	
Civic Center	P	
Community garden	P	
Daycare Facility / Childcare	P	
Financial Institution	P	
Food Establishments	P	
Government Facility	P	
Gun and Ammunition sales	X	
Health and Fitness Club	P	
Home Occupation	P	
Hookah Bar	X	
Hotel or Motel	P	
Housing, temporary	S	
Medical office	P	

Mortuary	S	
Museum	P	
Nightclub	P	
Open air market	T	
Park or playground	P	
Parking Facility	S	
Pawn Shop	X	
Personal service	P	
Pet shop	P	
Professional office	P	
Recreation facility	P	
Residential care facility	P	
Retail sale	P	
Street vendor/pushcart sales	T	
Studio/Workshop	P	
Tattoo Parlor	S	
Theater	P	
Thrift store	S	
Travel Bureau	P	
Upper Level Residential	P	
Vocational	S	
Other uses that the Planning Commission finds to be in accord with the purpose of this chapter and having characteristics similar to those uses listed in this table	P,S,T or X	

**3) Applicability.**

- a) Compliance is intended to occur over time as redevelopment and new development occur. This section recognizes lawful nonconforming status of uses and structures and normal maintenance is encouraged. This section also recognizes that some sites may be difficult to develop in compliance with the provisions herein and provides for variance procedures within certain parameters.
- b) The provisions in this section shall apply to all development or redevelopment of property within the Downtown District.

**4) Exemptions.**

- a) Regular maintenance and repair of materials, parking resurfacing and similar maintenance is exempt from compliance with this section.
- b) A building expansion that is solely designed and constructed to provide accessibility for the disabled, provide for screened service areas or relocate or screen visible exterior mechanical equipment so long as such equipment is no longer visible, is also exempt from compliance with this section.

**5) Conflicting provisions.** In the event that this section conflicts with any other City Code provision, the provision of this section shall supersede.

**B. Use regulations.**

- 1) With the exception of the prohibited uses listed in this subsection, all uses listed as permitted uses within the City of Fulton Code Chapter \_\_\_\_ are permitted within the Downtown District, subject to the regulations of this section.

- 2) Special use permits and site plan approval shall be required for the following uses:
  - a) Mortuary
  - b) Housing, temporary
  - c) Parking facility
  - d) Tattoo Parlors
  - e) Thrift Stores
  - f) Vocational
  
- 3) Standards for Eating and Drinking Establishments and Sidewalk Cafes.
  - a) Eating and drinking establishments and sidewalk cafes may operate between the hours of 6:00 a.m. and 11:00 p.m.
  - b) A sidewalk café within the public right-of-way may be permitted only in conjunction with and adjacent to a street level eating or drinking establishment. The café must maintain a clear path of travel free of obstructions that impede the flow of pedestrian traffic.
  - c) No outdoor establishment shall operate musical instruments or sound reproduction devices unless a Building Permit is approved enabling and controlling such operation.
  - d) The design of the outdoor seating areas, if applicable, shall be consistent with the main building to which it is attached, in materials, colors and amenities such as railings, light fixtures, canopies, and furniture.
  
- 4) The following uses are prohibited in the Downtown District:
  - a) Adult Uses including bookstores
  - b) Animal Hospital
  - c) Automotive Graveyard
  - d) Automotive Repair
  - e) Campground
  - f) Cannabis Dispensary
  - g) Car Wash
  - h) Check Cashing Service
  - i) Cemetery
  - j) Cigar Lounge
  - k) Contractor's yard
  - l) Commercial surface parking lots as primary use on any property (unless publicly owned)
  - m) Drive-through establishments
  - n) Dwellings other than second story or higher residential
  - o) Golf courses
  - p) Gun and Ammunition Sales
  - q) Hookah Bar
  - r) Industry, heavy
  - s) Junkyard
  - t) Motor vehicle sales, repair, or service station (allowed in CR-2 areas)
  - u) Off-premises freestanding signs
  - v) Pawn Shop

- w) Scrap metal processing
- x) Self-Storage
- y) Smoke Shops

**5) Definitions.** Definitions, as they related to the Downtown District will be included in this section.

**Alcoholic beverage production and sales.** "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, beer, cider and every liquid, solid, powder or crystal, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being, and any warehouse receipt, certificate, contract or other document pertaining thereto; except that confectionery containing alcohol as provided by Subdivision 12 of § 200 of the Agriculture and Markets Law and ice cream and other frozen desserts made with wine as provided in Subdivision 15 of § 200 of the Agriculture and Markets Law shall not be regulated as an "alcoholic beverage" or "beverage" within the meaning of this section where the sale, delivery or giving away is to a person aged 21 years or older. The sale, delivery or giving away of ice cream made with wine to a person under the age of 21 years may be prosecuted administratively and/or criminally in accordance with the provisions of this chapter. Can be in conjunction with a bar, tavern, or restaurant use.

**Animal hospital.** A place where animals or pets are given medical or surgical treatment, and where the boarding of the same animals is limited to short-term period's incidental to the hospital care.

**Automotive repair.** A facility providing repair services to automobiles, trucks, or motorcycles, including the sale, and mounting of tires.

**Bar.** An establishment primarily serving alcoholic beverages by the drink to the general public, with the service of food incidental to the consumption of liquor. Includes pub, tavern, and cocktail lounge.

**Bed & breakfast or inn.** A home where one family or manager is in permanent residence and from two to six guest rooms are rented for overnight lodging. Meals may be provided for compensation subject to applicable County Health Department regulations, and no provision for cooking in any individual room is made. More than six guest rooms shall be considered a hotel.

**Botanical Garden.** A public or private facility for the demonstration and observation of the cultivation of flowers, fruits, vegetables, or ornamental plants.

**Carwash.** A permanent, self-service or full service establishment that provides facilities for car washing. Catering service. A business that prepares food for consumption off-premises.

**Check Cashing Service.** A place of business where one can cash a check for a fee.

**Church.** A building used for nonprofit purposes by a recognized and legally established sect solely for the purpose of worship.

**Cigar lounge.** A business establishment that is dedicated, in whole or in part, to the smoking of tobacco products, electronic cigarettes, or other substances, including but not limited to establishments known variously as cigar lounges, hookah lounges, or tobacco clubs.

**Civic Center.** An area developed or to be developed with any of the following public buildings or uses, including offices, libraries, playgrounds, parks, assembly halls, police stations, fire stations.

**Community garden.** Garden plots where a group grows and cares for plants for the purpose of consumption, neighborhood beautification, or education

**Daycare facility / childcare.** A facility that provides non-medical care and supervision of minor children or elderly adults for periods of less than 24 hours; that does not qualify as a small or large family day care home; and that meets the licensing requirements of the State. Any establishment may provide child or adult day care as an accessory use that is not subject to additional permit requirements, provided that the establishment offers such service only to its customers or employees, and only during the period when the customers or employees are visiting or working in the establishment.

**Financial institution.** A facility offering financial services such as a bank, credit union, savings & loan, or finance company.

**Food establishments.** The serving of food and beverages to patrons for compensation, including deli, sandwich, bakery (retail sales only), candy, coffee, ice cream, health food, café, restaurant.

**Government facility.** Any facility owned and operated by City, county, State or federal governments, regardless of the use.

**Gun and ammunition sales.** Any premises or portions thereof used for the sale, vending, dealing, exchange or transfer of firearms and ammunition.

**Health and Fitness Club.** A facility owned or operated by a corporation, association, person or persons, for a social, educational or recreational purpose, to which membership is required for participation.

**Home occupation.** A use conducted entirely within a dwelling and carried on by the inhabitant(s) thereof, which use is clearly incidental and secondary to the use of the structure for residential purposes, and which does not alter the character thereof. By its very nature and scope the use does not adversely affect the activities, enjoyment, or property values of the neighborhood.

**Hookah Bar.** An establishment where patrons communally smoke flavored tobacco, upon written clearance from the New York State Department of Health.

**Hotel or motel.** A building or portion thereof, or a group of buildings, with access through a common entrance, lobby or hallway, to seven or more guestrooms that are designed and intended for paid overnight lodging on a short-term basis. The term "hotel" and "motel" may be used interchangeably.

**Housing, Temporary.** A facility for transient occupancy, such as a hotel, bed & breakfast residence, Airbnb, VRBO, or other short-term vacation rentals.

**Medical office.** An establishment that provides medical services by medical professionals such as physicians, dentists, chiropractors, optometrists or other similar medical staff. Includes a clinic, medical or dental laboratory or pharmacy incidental to an office, dialysis center, outpatient surgicenter, or urgent care. In the mixed use zones, hours of operation limited to 7 a.m. until 10 p.m.

**Mortuary.** Place where dead bodies are kept temporarily or where dead body is prepared for funeral.

**Museum.** A building serving as a repository for a collection of natural, scientific or literary curiosities or objects of interest, or works of art, arranged intended and designed to be used by the public for viewing. The sale of goods to the public as gifts may be included as an accessory use.

**Nightclub.** A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and musical entertainment are permitted. Includes discotheques and dance halls.

**Open air market.** An establishment for the sale of fresh agricultural produce and related products, and licensed by the City.

**Park or playground.** Land managed by the public and set aside for public use which may or may not have developed recreational facilities, such as playground, tennis courts, horse and bike trails, baseball fields, picnic areas, swimming pools, and/or bathrooms.

**Parking facility.** An open, paved or otherwise surfaced area, or a structure, used for the parking and storage of vehicles, for free or for compensation or to accommodate patrons, customers or clientele of a business.

**Pawn shop.** An establishment that lends money at a specified rate of interest on articles of personal property left as security. Does not include gun sales unless a special use permit application is filed, reviewed, and approved by the Planning Commission.

**Personal service.** An establishment that offers services to its customers by an act or useful labor, including a barbershop, beauty salon, day spa, manicure, tailor, dry cleaning, laundromat, small appliance repair (household, television, stereo system, computer), watch & jewelry repair, shoe repair, tax preparation, travel agency, employment agency, ticket agency, copy center, printing, automobile rental (office only), computer rental, cybercafé, package, postal and mailbox service. Pet shop. An establishment engaged in the retail sale of animals, pet supplies or grooming, including exotic animals, which are defined as not commonly domesticated in the United States or are wild by nature. No boarding of animals is permitted.

**Pet shop.** An establishment primarily engaged in the retail sale of household pets.

**Professional office.** An office used by persons who provide services, such as accountants, architects, planners, engineers, surveyors, geologists, lawyers, designers, real estate agents, investment brokers, title and escrow offices, business incubator, but does not include a veterinary office or kennel, nor any adult-oriented business.

**Recreation facility.** An establishment that provides entertainment activities or services for a fee or admission charge, including a bowling alley, electronic game arcades, billiard rooms, miniature golf, indoor party center.

**Residential care facility.** Any family home, group care facility or similar establishment for 24- hour non-medical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

**Retail sale.** The selling of goods, wares or merchandise directly to the ultimate consumer or persons without a resale license. Establishments may include convenience mart, florist or flower shop, grocery, insurance, pharmacy, jewelry, apparel, gift, hobby, hardware, bookstore, stationery, art exhibit & gallery, sporting goods, bicycle and bicycle rental, toy, music store (including sale of instruments, records, tapes), vehicle parts (excluding repair and service), antiques.

**Street vendor.** A portable, non-permanent, wheeled, movable facility for the sale of retail merchandise or food and beverages from a wagon or pushcart by a vendor with a valid City business license.

**Studio or workshop.** A studio facility for the arts, crafts, photography, music and music recording, dance, gymnastics, aerobics, yoga, martial arts, cooking.

**Tattoo parlor.** An establishment that provides body art designs and service, including body piercing, for its customers, provided that the business owner complies with all applicable requirements of the County Health Department, County Sheriff's Department, and conditions of approval that shall include age restriction, full screening of service operations, hours of operation, and measures to control loitering and traffic at the site.

**Theatre.** A building or portion thereof for the showing of motion pictures, or for dramatic, dance, musical or other live performances.

**Thrift store.** A for profit or nonprofit business that engages in the sale or resale of previously owned or used goods and merchandise.

**Travel bureau.** An agency that makes the necessary arrangements for travelers, especially the booking of airline tickets and hotel rooms.

**Upper Level residential.** A residential dwelling located on the second story or higher of a building that is typically a food establishment, used for personal services, or retail.

**Vocational.** A location with the purpose of education or training directed at a particular occupation and its skills.

**Zoning district.** The classification of lands as established in this chapter and by the Official Zoning Map incorporated by reference herein.

**Zoning map. Zoning Map.** The official map entitled "City of Fulton Zoning District Map" established pursuant to § 640 of this chapter

**C. Regulations applicable to all.** The following standards apply to all sites and buildings in all areas unless expressly stated otherwise.

**1) Site requirements**

- a) Lot width. Lot width is the distance between the two side lot lines measured at the primary street property line along a straight line (or along the chord of the property line on a curvilinear lot).
- b) Lot depth. Lot Depth is the distance between the front and rear property lines measured along a line midway between the side property lines.

**2) Building placement.**

- a) Building setbacks.
  - 1) Building setbacks apply to all structures. There are four types of setbacks.
    - [a] Primary street.
    - [b] Side street.
    - [c] Side interior.

**[d] Rear.**

- 2) Measurement of setbacks. Primary and side street setbacks are measured from the property line. Side, rear, and interior setbacks are measured from the property line (or edge of right-of-way where there is an alley).
- 3) Primary and side street designation. Where only one street abuts a lot, that street is considered the primary street. A lot with multiple frontages must have at least one primary street, as designated by the Code Enforcement Officer, based on the following criteria:

**[a]** The street(s) with the highest classification.

**[b]** The established orientation of the block.

**[c]** The street(s) abutting the longest face of the block.

**[d]** The streets(s) parallel to an alley within a block.

**[e]** The street that the lot takes its address from.

**b) Building height.**

- 1) Measurement. Building height is regulated in feet and is measured from the average grade of the frontage facing a primary street to the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof or to the highest point of roof surface of a flat roof, not including allowed encroachments.
- 2) Height encroachments. All buildings must be constructed within the maximum building height.

**c) Façade Requirements.**

- 1) Transparency. Transparency is the minimum percent of street-facing facade that must be comprised of transparent windows. The ground story is measured between two and 12 feet above the sidewalk. This requirement applies to primary and side streets only. Opaque elements of a window (such as panes, frosted or tinted areas, and opaque portions of window signs) cannot be used to meet the transparency requirement.
- 2) Building materials. Permitted building materials include: wood, masonry, metal, concrete, glass, fiber-cement, and exterior insulation and finish systems.
- 3) Pedestrian access. All buildings must provide a street-facing entrance operable to residents or customers at all times. There must be a connection between all main building entrances and the closest sidewalk (or street if there is no sidewalk).

**d) Setback encroachments.** All buildings and structures must be located behind the required setback except for the encroachments allowed below.

**1) Awnings.**

**[a] Description.** An ornamental roof-like protective cover over a door, entrance, window or outdoor service area that projects from the face of a structure and is constructed of durable materials.

**[b] General provisions.**

- I. Awnings shall be continuous above openings below. Breaks in awnings shall coincide with breaks in facade openings below.
- II. Canvas and fabric awnings must be made of durable fabric and must be in a fixed position.



- III. High-gloss or plasticized fabrics are prohibited.
- IV. Bright colors that are incompatible with building materials are prohibited.
- V. Internally illuminated or backlit awnings are prohibited.
- VI. Awnings must be self-supporting. No support poles may encroach onto the right-of-way.

**D. Parking in the Downtown District**

- 1) Off-street parking is not required for non-residential uses in accordance with Chapter 640 Attachment 2 Schedule B – Off-Street Parking Requirements. Should the use include residential units, off street parking is required.
- 2) Residential uses shall comply with Chapter 640 Attachment 2 Schedule B, Off-Street Parking Requirements. However, a request to reduce the number of required parking spaces may be made to the Planning Commission concurrent with a Design Review or Special Use Permit application, provided a Parking Study supports the finding that the number of parking spaces actually needed for a specific project is less than that required by Code.

DISTRICT	PERMITTED PRINCIPAL USE	PERMITTED USE WITH SITE PLAN APPROVAL	MINIMUM LOT SIZE		MAXIMUM PERCENTAGE OF LOT OCCUPIED BY	MINIMUM HABITABLE FLOOR AREA PER DWELLING UNIT (SF)	MINIMUM HEIGHT OF BUILDING OR STRUCTURE (FEET)	MAXIMUM HEIGHT OF BUILDING OR STRUCTURE (FEET)	MINIMUM YARD SETBACKS (FEET)			
			AREA (SF)	WIDTH (FEET)					FRONT	ONE SIDE	TOTAL TWO SIDES	REAR
DD DOWNTOWN DISTRICT			8,000	50	Principal building, accessory structures and impervious surfaces 100%	600	24	75	NA	NA	NA	NA

Examples of desired Downtown District development:



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