

Chapter 215. Zoning

Article VIIA. C-2 Commercial District

[Added 2-23-2015 by L.L. No. 1-2015]

§ 215-52.1. Purpose and intent.

In accordance with the goals and objectives of the Town of Tonawanda Comprehensive Plan and the Tonawanda Redevelopment Corridors Study, the C-2 Commercial District is created to facilitate appropriate redevelopment of nonresidential properties along the east side of Military Road. The intent of the C-2 Commercial District is to implement a series of regulations and guidelines that encourage a broad range and mix of uses that can be accommodated within the existing corridor. The C-2 Commercial District is also intended to encourage the establishment of uses compatible with both the surrounding residential neighborhoods, as well as fit within the context of existing lots and buildings. These district regulations are intended to provide adequate buffering, landscaping, parking and circulation, and improve the aesthetic character of the corridor.

§ 215-52.2. Boundary description.

The boundary of the C-2 Commercial District shall encompass a corridor along the east side of Military Road extending from the Village of Kenmore to the City of Tonawanda, exclusive of the portion of the Mt. Olivet Cemetery located along the east side of Military Road. The boundary of this district shall follow property lines to include the entirety of all Tax Map parcels that front the east side of Military Road within the district as depicted on the Zoning Map certified and filed in accordance with § 215-5 of this chapter.

§ 215-52.3. Permitted uses.

A. In the C-2 Commercial District, no building, structure or lands shall be used, structurally altered or erected which are intended, arranged or designed to be used for other than those uses listed as follows:

- (1) Single-family dwelling.
- (2) Church.
- (3) K-12 educational institutions.
- (4) Municipal buildings.
- (5) Libraries.
- (6) Two-family dwelling.
- (7) Recreation/community centers.
- (8) Public museum.
- (9) Memorials.
- (10) Public parks and public buildings.
- (11) Philanthropic institutions.
- (12) Multifamily dwellings (three or more dwelling units).
 - (a) Standard multifamily.
 - (b) Mid-rise multifamily.
 - (c) High-rise multifamily.
- (13) General office of any type.
- (14) Nonprofit charitable institutions.
- (15) Clubs/lodge/fraternal/religious nonprofit.
- (16) Financial institutions.
- (17) Medical office/clinic.
- (18) Mortuary and funeral home.
- (19) Nursing home.
- (20) Computer services.
- (21) Business offices (insurance office, real estate office) or medical professional offices/buildings.
- (22) Retail sales/service of merchandise.
- (23) Hotel, motel.
- (24) Restaurant.
- (25) Theater.
- (26) Seasonal outdoor dining (permitted by special annual permit in accordance with Article XXV, § 215-164, of this chapter).
- (27) Public utilities.
- (28) Research facilities, including laboratories and testing facilities.
- (29) Nursery schools and day-care centers.
- (30) Commercial uses.
- (31) Service or repair of an industrial nature.
- (32) Automotive uses (such as new and/or used vehicle sales and/or repair, collision shops, automobile repair shop, automobile detail shop, automobile collision shop).
- (33) Car wash.
- (34) Gasoline filling station and convenience stores with gasoline filling facilities.
- (35) Stand-alone used vehicle sales lot.

B. The following uses shall only be allowed in the C-2 Commercial District as special use permit cases approved in accordance with Article XIV of this chapter:

- (1) Hospitals or institutional uses.
- (2) Commercial laundry plants.
- (3) Bottling plants.
- (4) Warehousing and storage of goods for distribution.
- (5) Boat/automobile storage facility.
- (6) New vehicle storage.
- (7) Self-storage facility.
- (8) Light industry.
- (9) Light manufacturing, fabrication or assembly of component parts.
- (10) Wholesale business and storage.

C. Prohibited uses. No use, not explicitly allowed in Subsections A and B above, shall be permitted in the C-2 Commercial District. Prohibited uses specifically include:

- (1) Breeding, raising or keeping of bees, fowl, farm animals, exotic animals, pigeons, reptiles, dog kennel or more than two dogs six months or older.
- (2) Junkyards.
- (3) Waste transfer or disposal.
- (4) Land mining.
- (5) Stockyards.
- (6) Trailer camps.
- (7) Tourist cabins.
- (8) Automobile tourist courts.
- (9) Tourist camps or parks.
- (10) Adult uses.
- (11) Storing of a vehicle or trailer with an unladen weight of 10,000 pounds. See § 215-52.4C.

§ 215-52.4. Use restrictions.

A. Gasoline filling stations and auto repair shops shall be of the drive-in type, and no operation therewith shall be allowed between the building line and the street or in the street, and no pump island shall be located within 30 feet of the property line adjoining a public street. (See § 215-72.)

B. Where auto repair is an activity upon the premises of a permitted establishment, no more than five unlicensed vehicles being repaired on the premises or more than 10% of the total vehicle storage and repair capacity of the entire premises, whichever is less, shall be kept, stored or worked upon in any way within the outdoor portions of the premises at any one time. No unlicensed vehicle shall be allowed to remain on an outdoor portion of the premises for longer than two weeks at any one time. Portions of sites used for this purpose shall be screened from public view and from abutting residential uses through fencing and landscaping.

C. The keeping, storing and/or parking of a vehicle or trailer with an unladen weight of 10,000 pounds or more is prohibited in a C-2 Commercial District, except for those vehicles used for delivery purposes where the vehicle is removed from the property within each 24 hours.

D. All activities, except automobile parking, shall be conducted wholly within an enclosed structure erected in conformance with § 215-39 of this chapter. The displaying, storing and selling of seasonal-type merchandise and products which are related to the retail activities carried on in the structure erected in conformance with § 215-39 of this chapter, except as described in Subsection E hereof, are permitted outside of an enclosed structure, provided that said merchandise and products are neither subject to harm by exposure to the elements nor hazardous, harmful or injurious to abutting premises.

E. Seasonal outdoor dining shall be permitted by special annual permit in accordance with Article XXV, § 215-164, of this chapter.

F. Residential uses in the C-2 Commercial District must comply with residential property line setback restrictions and applicable restrictions set forth in the Article IV of this chapter.

§ 215-52.5. Site plan review required.

A. Prior to the issuance of a building permit in the C-2 Commercial District, or a permit for a change in use, or approval of a special use, the Code Enforcement Officer shall require the applicant to submit a site plan for review in accordance with the provisions of Article XXIII, Approval of Site Plans. Site plan review is required for all new land use activities, including new structures, new uses, expansions of existing structures, demolition of existing buildings, excavation operations, new special uses and legal conversions of existing buildings to other uses, except those specifically exempted in § 215-151.

§ 215-52.6. Construction standards.

A. The exterior walls of any building erected in a C-2 Commercial District to be used for the permitted uses set forth in § 215-52.3 shall be of any type of construction as identified by the New York State Uniform Fire Prevention and Building Code, provided that distance separations as specified for such construction are adhered to and all other requirements of said code are complied with.

B. No structure shall exceed 45 feet in height, with the following exceptions:

- (1) The height of a mid- or high-rise multifamily dwelling may exceed 45 feet; provided, however, that the distance between each portion of the building having a greater height than 45 feet and each lot line shall not be less than the minimum front, side and rear setbacks, plus one foot for every two feet additional height in excess of 45 feet.
- (2) Chimneys, towers or similar structures, whether located upon and constituted as an integral part of a principal structure or erected separately, may be erected above the height limit specified, but are limited to, a height not exceeding 60 feet above the average finish grade.

C. Towers and antennas shall comply with the provisions contained in Article XXIV of the Code of the Town of Tonawanda.

[1] *Editor's Note: See also Ch. 54, Building Code Administration.*

§ 215-52.7. Storage tanks for flammable liquids.

A. The total capacity of gasoline that may be stored at filling stations located in a C-2 Commercial District shall be limited to 48,000 gallons, to be entirely of underground storage, with a maximum capacity of individual tanks to be 12,000 gallons, and shall be installed in accordance with rules and regulations of the National Fire Protection Association and inspected and approved by the Code Enforcement Officer. These rules and regulations shall apply to all underground storage tanks containing flammable liquids.

B. Aboveground liquid storage tanks shall be constructed, protected, located and maintained in accordance with the latest rules, regulations and specifications of the National Fire Protection Association.

C. Propane exchange facilities shall be installed, protected, located and maintained in accordance with the latest rules, regulations and specifications of the National Fire Protection Association. Such facilities shall be protected against vehicle impact by New York State Department of Transportation approved barriers or pipe bollards, or other approved means.

§ 215-52.8. Front yards.

A. Minimum front yard setback - without front parking. The minimum front yard setback for structures fronting on Military Road shall be 12 feet, as prescribed by Plate G.^[1] On corner lots, all buildings, structures, signs and landscaping shall provide a minimum of 15 feet of visual clearance from the street line.

[1] *Editor's Note: Plate G is included as an attachment to this chapter.*

B. Minimum front yard setback - with front parking. For lots providing parking in front of the building, a minimum setback of five feet from the property line along the street to any parking or driving aisle shall be required; this green space area must be landscaped according to the provisions established in § 215-14. The structure or building shall be further offset to accommodate a parking plan in accordance with the minimum dimensions set forth in Article XIII of this chapter.

§ 215-52.9. Side yards.

A. For interior lots in the C-2 Commercial District, no side yard shall be required, provided that the walls for such buildings are constructed in accordance with the New York State Uniform Fire Prevention and Building Code for zero clearance; provided, however, that side yards adjoining side yards of a residential or restricted business property shall be eight feet.

B. For corner lots in the C-2 Commercial District, a side yard of variable width shall be required as shown on Plate G.^[1]

[1] *Editor's Note: Plate G is included as an attachment to this chapter.*

C. Accessory structures on a corner lot in the C-2 Commercial District shall be located in the side yard of the lot, not along the street side, as shown on Plate F.^[2]

[2] *Editor's Note: Plate F is included as an attachment to this chapter.*

D. The side yard for an interior lot, abutting the ends of lots facing another street shall be as shown on Plate G under Column D.

§ 215-52.10. Rear yards.

Minimum rear yard setbacks shall be governed by the following conditions:

A. The rear yard setback of a building in the C-2 Commercial District that abuts the side or rear yard of a lot(s) in a nonresidential district shall be 10 feet.

B. The rear yard of a lot in the C-2 Commercial District that abuts the side or rear lot line of a lot(s) in a residential district shall have a depth of 15 feet for buildings 30 feet or less in height. For buildings higher than 30 feet, this distance shall be increased one foot for each additional five feet in height. This condition is shown on Plate E.^[1] Said rear yard shall be maintained free from storage of any merchandise, containerized or not, or any empty containers, supplies and/or maintenance items.

[1] *Editor's Note: Plate E is included as an attachment to this chapter.*

C. The rear yard shall be landscaped and shall include visual screening in the form of an opaque fence having a minimum height of six feet above grade and a maximum height of 10 feet above grade to separate the nonresidential uses (including parking) and adjoining residential properties.

§ 215-52.11. Projections into yards.

A. Steps may project into a front or side yard on a corner lot or into the front yard of an interior lot.

B. A vestibule may project into a required front yard only. A vestibule may project ahead of the front building line six feet, provided that the total width of such shall not exceed 25% of the total frontage of the building.

C. A canopy or cornice, constructed of noncombustible material, may project into a required front yard and may also project into a required side yard of a corner lot on the intersecting street side where there is a minimum five-foot side yard.

D. Canopies over fuel-dispensing islands may project into the required setback to within six feet of the property line, provided that the edge of the fuel-dispensing island is located a minimum of 30 feet from the property line; the minimum height clearance under the canopy is 11 feet; and the canopy face depth does not exceed three feet.

§ 215-52.12. Lot coverage.

Maximum lot coverage shall be governed by the following conditions:

A. When new construction or substantial alteration, modification or expansion of existing structures is proposed on a nonresidential property in the C-2 Commercial District, the maximum building coverage shall be 55% and the maximum coverage of the lot with total impervious or paved surfaces (buildings, parking, storage or sidewalks) shall be 90%. The remaining 10% of the lot (green space) shall be landscaped according to the provisions established in § 215-52.14.

§ 215-52.13. Design standards.

A. Parking. Parking shall comply with Article XIII of this chapter and meet the following additional standards:

- (1) All parking areas shall be paved with concrete or blacktop paving, paving brick or other comparable hard surface approved by the Town Building Department and shall be properly drained.
- (2) Parking areas shall not be located within any setback areas. The nearest edge of parking areas to a property line along at public street shall have a curb, bumper guards or other physical barrier to the required adjoining green space.
- (3) Parking areas abutting a side or rear yard of and adjacent to a residential use, except for driveways and other entrances, shall be properly screened from view from the adjacent residential use.
- (4) During site plan review, the Planning Board may reduce the minimum number of off-street parking spaces required by § 215-83A, by no more than 25%, in order to provide additional landscaping. Approval of a reduction in parking shall take into account the proposed use, pedestrian accessibility and other reasonable indications that the amount of proposed parking is adequate to meet estimated parking needs. If approved, the area where parking has been reduced shall be used exclusively for landscaping designed in accordance with the standards and criteria applicable in this district.

B. Loading. Loading docks shall not be permitted on any side of a building which abuts a residential property.

C. Storage of materials. Required service areas, required loading areas and outdoor storage areas shall be located so as to not be visible from public streets. To the extent possible, service, loading and storage facilities should be architecturally incorporated into the building or architecturally treated with walls, opaque fencing and/or landscaping. Where these facilities are visible from pedestrian areas, public streets or public open space, they shall be completely screened with opaque materials.

D. Utilities and communications facilities. No utilities or communications facilities shall be installed above ground in front or side yards. All utility and communications facilities shall be installed so as to anticipate future needs and shall be sited and sized to avoid future requests for relief from the Town Code.

E. Architectural style. Diversity of architectural design shall be encouraged, but multiple buildings on the same site shall be designed to create a cohesive visual relationship between buildings.

F. Rooftop mechanical equipment. Mechanical space for building equipment placed on the building roof may be permitted above the maximum height specified, provided that such mechanical equipment is set back a minimum of 15 feet from any exterior walls, does not exceed 10 feet in height above the finish roof line of the building upon which it is installed, and is architecturally screened from view from the adjoining sidewalk(s) or abutting residential uses.

G. Pedestrian access. Pedestrian access shall be provided through parking lot(s) between the public sidewalk along Military Road and the primary structure. Pedestrian access may be in the form of a marked crosswalk, stamped pavement, or sidewalk. Sidewalks shall be provided along the full length of all facades that face a public street and include a customer entrance.

§ 215-52.14. Landscaping.

A. All nonresidential properties in the C-2 Commercial District (including multiple dwellings) shall be landscaped in a manner which will harmonize with the existing buildings, proposed expansions and improvements, and the surrounding commercial area. Enhanced landscaping shall be applied to the immediate area surrounding buildings, yards, sidewalks, open spaces, parking areas, storage areas and service areas.

B. The Town shall require landscaping in the form of appropriate shrub and tree plant materials arranged in rows or clusters, and designed as buffers, screens or hedges which give attractive definition to the street edges or other areas of a lot, to screen a lot along its lot lines with adjacent properties, to screen utility buildings, refuse collection areas, storage areas, cooling systems or other similar structures, and other similar installations and features, to provide landscaped islands or planted subareas which punctuate otherwise developed principal portions of a site, in conjunction with appropriate combinations of decorative fences. Landscaping shall be used to give relief and natural beauty to sites within the C-2 Commercial District. Emphasis shall be given to landscaped treatments along the principal street edges of a site and along adjoining residential properties.

C. Areas between curblines and sidewalk.

- (1) Areas between street curbing or the edge of rights-of-way and sidewalks on Town-owned streets shall be landscaped. Erie County and New York State rights-of-way may be improved under the following conditions:
 - (a) Where the space between the curblines and sidewalk is less than three feet that area may be improved with stamped colored concrete, brick pavers, or other approved material.
 - (b) Where the space between the curblines and sidewalk is greater than three feet that area shall be improved with landscaping in the form of street trees or turf or other appropriate approved natural materials.
- (2) Plans for improvements to the public space between curb and sidewalk shall be approved by the right-of-way owner prior to the Town completing site plan review.

D. Tree planting spacing patterns of one tree for no less than every 30 linear feet of distance in a regular pattern along site edges adjoining principal business streets is required. Landscaping patterns along the property line along a public street shall be consistent with the unobstructed view corridor standards established by § 215-6. Sight obstructions, which requires that shrubs and similar materials generally not be higher than three feet above adjacent street grade and that street trees have branches generally no taller than 12 feet above adjacent street grade in order that views not be obstructed for approaching or departing vehicles.

E. The minimum five-foot front yard area between the parking lot and property line along the public street shall be landscaped with turf, ground cover or low shrubbery (less than three feet) and street trees having branches no lower than 12 feet above grade at maturity.

F. C-2 Commercial District properties which immediately abut residential properties or uses shall install a combination of minimum six-foot-high opaque fencing and tree plantings spaced no farther than 30 feet center to center, or shrub plantings located no farther than five feet center to center, along all property lines abutting those residential uses.

G. A landscape plan in the form of a colored rendering, prepared by a registered landscape architect or other design professional authorized to prepare plans, shall be submitted as part of the site plan application materials. All plants, trees and shrubs shall be planted in accordance with the planting schedule provided on the landscape plan. Landscape materials selected shall be appropriate to the growing conditions of this climatic zone. All trees shall be plant species having a minimum caliper of three inches measured two feet above ground level at the time of planting, an average crown spread of greater than 15 feet at maturity and trunks which can be maintained in a clean condition, free of branches from grade to generally 12 feet above grade along principal street edges and 10 feet above grade elsewhere. Trees having an average mature spread of less than 15 feet may be substituted by grouping the same so as to create the equivalent of a fifteen-foot crown. All trees shall be a minimum of six feet above grade at the time of planting. All bushes and shrubs shall be a minimum of two feet in height when measured immediately after planting. Hedges, when measured, shall be planted and maintained so as to form a continuous visual screen within two years after time of planting.

§ 215-52.15. Multiple dwellings.

In the C-2 Commercial District, the percentage of the lot area which may be occupied by multiple dwellings shall not exceed 50%, and the number of square feet of the lot area per dwelling unit shall not be less than 1,100 square feet.

§ 215-52.16. Permitted accessory structures.

Should the principal structure on a lot not occupy the entire area within the building envelope (outside of the front, side or rear yards), accessory structures shall be permitted to occupy the balance of the building envelope, except that such accessory structures shall not occupy the area provided for parking of vehicles in accordance with the off-street parking requirements as provided in Article XIII.