

**Ordinance No. 477**

**An Ordinance to amend the City of New Castle Zoning Code to Add a New Zoning Designation: Downtown Gateway (DG) District and Specifying District Regulations**

**WHEREAS**, the City of New Castle Comprehensive Plan establishes land use goals for the City; and

**WHEREAS**, the Comprehensive Plan recommends that a new Zoning Designation be established, which shall be known as the Downtown Gateway (DG) Zoning District, which generally encompasses the vicinity of 7<sup>th</sup> and South Streets and the Ferry Cut-Off area; and

**WHEREAS**, the Zoning Map of the City of New Castle shall be amended to reflect the new DG Zoning District, upon its passage; and

**WHEREAS**, a public hearing was held on September 23, 2010, where all persons were heard either in favor of, or in opposition to, the proposed establishment of the new DG zoning district designation.

**NOW, THEREFORE BE IT ORDAINED** by the Council of the City of New Castle, the following:

Add a new Segment to the Zoning Section of the City Code, as follows:

\* \* \*

**City of New Castle**  
**Chapter 230 Zoning Additions and Amendments**  
**DG - Downtown Gateway Zoning District**

**Article 1 Terminology**

*(The following list of definitions is to be incorporated into Article 1 Section 230-1 Definitions.)*

**ARTICULATION:** A change in depth of the vertical building plane or a change in building material.

**CORNICE:** The projection at the top of a wall or the top course or molding of a wall when it serves as a crowning member.

**EVERGREEN:** Flora that maintains green foliage year round.

**FAÇADE:** The exterior walls of a building.

**FARMERS' MARKET:** Temporary or occasional outdoor retail sales of farm produce and prepared food from vehicles or temporary stands.

**FENESTRATION:** The arrangement of windows and other exterior openings on a building.

**MASSING:** The three-dimensional shape of a building(s) height, width and depth.

**MENU SIGN:** A temporary sign used to inform the public of the list of entrees, dishes, foods and entertainment available in a restaurant.

**PARAPET:** The portion of a wall which extends above the roofline.

**PEDESTRIAN TAKE-OUT WINDOW:** An operable window opening in the façade of a commercial building used for the sale of food and/or beverages. Such a window shall be designed for the exclusive use of pedestrians and shall be located to provide a safe waiting area and to not disrupt or impede pedestrian movement on a sidewalk used by the public.

**PERSONAL SERVICE SHOP:** A business which provides a service oriented primarily to personal needs and not primarily involving retail sales of goods or professional advisory services. Included are tailor, barber, beauty

salon, shoe repair, dressmaker or dry cleaner (provided no cleaning operations are performed on premises); excluding massage parlors.

PORTICO: A covered walk or porch that is supported by columns or pillars; also known as colonnade.

PUBLIC PARKING FACILITY: Any parking area that is available to the public at all times.

SANDWICH BOARD SIGN: An A-frame sign that is not permanently attached to the ground or other permanent structure.

TRANSIT FACILITY: A freestanding structure located on a bus or train route, which is designed to accommodate embarking and disembarking transit passengers.

**Article II Establishment of Districts; Zoning Map**

*(“DG Downtown Gateway is proposed to be added to the table in Article II Section 230-4 Rules for interpretation of district boundaries.”)*

**Article IV District Regulations**

*(The following is proposed to be added to Article IV District Regulations as a new subsection)*

**§ 230-21.1 Downtown Gateway District (DG).**

The Downtown Gateway District is intended to:

- (1) Create pedestrian-oriented neighborhood commercial district providing primarily local goods and services and presenting a gateway worthy of the City of New Castle.
- (2) Extend the built-form, character and scale of the historic district.
- (3) Encourage lively, human-scaled gathering places for the community through building design and orientation and by encouraging a mix of uses.
- (4) Encourage the consolidation of parcels identified for redevelopment.
- (5) Reduce the number of existing or future driveways and produce more efficient access by encouraging shared use of parking areas.
- (6) Minimize the aesthetic and safety impacts of parking structures and surface parking lots.
- (7) Enhance the aesthetic appearance of the Downtown Gateway Districts.
- (8) Improve the pedestrian environment along streets, parking lots and other pedestrian areas.

**A. The following uses are permitted by-right or special exception in the DG Districts:**

**Table 1: Permitted Uses**

P SE	= Permitted use = Special Exception, see Sec. 230-57 B.	DG
<b>Residential Uses</b>		
	Dwelling above retail, service establishment or office	P
	Single-family Dwelling, Detached, Semi-detached, Attached	SE
	Two-family Dwelling	SE
	Multi-family Dwellings	P
	Home occupation	P
	Hotel, motel	P
	Bed and breakfast inn and bed and breakfast house.	P
<b>Retail and Services</b>		
	Retail establishment for the sale of such items as dry goods, variety and general merchandise, art galleries, clothing, food, drugs, household supplies, hardware,	P

furnishings, antiques, baked goods, greeting cards, plants and flowers; and the sale and repair of jewelry, watches, clocks, optical goods, musical, professional or scientific instruments.	
Personal service establishments such as, but not limited to, tailor, barber, beauty salon, shoe repair, dressmaker or dry cleaner (provided that no cleaning operations are performed on the premises).	P
Restaurant establishment serving food or beverages to the general public, such as, but not limited to brew pub, restaurant, café, taproom, tavern, retail baker, confectionery or ice cream shop, including walk-up windows.	P
Outdoor dining	P
Entertainment establishments such as theaters for motion pictures and stage plays	P
Financial institution, consisting of a bank or savings and loan association, but excluding drive-through facilities.	P
<b>Office, Clerical and Similar Establishments</b>	
Professional office, such as, but not limited to, those for the practice of medicine or other health services, or for legal, engineering, architecture, design related or accounting offices.	P
Business office, such as, but not limited to real estate sales, travel agency, insurance sales, advertising or retail copying and printing services.	P
<b>Mixed Use</b>	
A mix of uses in a single building or group of buildings with first floor non-residential uses as described herein and office or multi-family residential on the upper floors. Residential density of upper floor residential uses in a mixed-use building shall not exceed 10 units per acre. Residential uses shall have a private access separate from that of the commercial uses.	P
<b>Institutional, Care, Educational, Religious, Social</b>	
Educational institutions, such as elementary and secondary schools, tutoring businesses, learning centers, universities and colleges	SE
Sporting facilities	SE
Religious institutions and their ancillary uses	SE
Private clubs, lodges and fraternal organizations	SE
Fitness / wellness center	P
Day care center	P
Preschools and day nursery schools subject to the following special requirements: (1) At least 50 square feet of outdoor play space per child shall be provided. (2) Outdoor play space shall be fenced or otherwise enclosed on all sides and shall not include driveways, parking areas or land unsuited by other usage or natural features for children's active play space.	SE
<b>Transportation-Related</b>	
Transit facilities	P
Parking garage or structure, public or commercial parking	SE
<b>Public, Semi-Public, Emergency</b>	
Government administration uses, post office, community center, public library, offices for public utilities.	P
Public space, parks & recreational facilities	P
Public safety facilities including, ambulance, fire, police, rescue and national security	P
<b>Other</b>	
Gallery and museum	P
Studio for dance, music, fitness, art or photography.	P
Farmers' market	P
Uses determined by the City Council to be of a similar nature to the uses permitted by right or by special exception herein when located in a principal or accessory building.	SE
Signs subject to the provision of § 230-37 of this chapter.	P
Public utility rights-of-way and structures in accordance with § 230-38 and § 230-57B of this chapter.	SE

Accessory uses and structures clearly incidental and customary to and associated with the operation of the permitted use.	P
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**B. Uses Permitted by Special Exception**

- (1) See Sec. 230-57 B. Special Exceptions; conditions governing applications, procedures.
- (2) In its recommendation to the Board of Adjustment regarding a special exception application, the Planning Commission shall:
  - (a) Consider the suitability of the property for the use desired. Assure itself that the proposal is consistent with the spirit, purpose, and intent of this Chapter, the Comprehensive Plan, and other relevant plans.
  - (b) Determine that the proposal will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood and that the use of the adjacent property is adequately safeguarded.
  - (c) Determine that the proposal will serve the best interests of the City, the convenience of the community, and benefit the public welfare.
  - (d) Consider the effect of the proposal upon the public services and facilities such as public water, sewers, police and fire protection, and public schools.
  - (e) Consider the probable effects upon highway traffic and pedestrian movements, and assure adequate access and circulation arrangements in order to protect major roads from undue congestion and hazard.
  - (f) Be guided in its study, review, and recommendation by sound standards of subdivision and land development practice where applicable.
  - (g) Recommend conditions and safeguards in addition to those required as are necessary to assure that the intent of this Chapter is complied with, which conditions may include (but are not limited to) harmonious design of buildings, planting and its maintenance as a sight and sound screen, the minimizing of noxious, offensive or hazardous elements, and adequate standards of parking, loading and sanitation.
- (3) Uses permitted by special exception are required to meet the following standards.
  - (a) Architectural embellishments that serve a function and add visual interest to roofs, such as dormers, masonry chimneys, cupolas, towers and other similar elements, shall be included in the design of buildings.
  - (b) Buildings shall be articulated by changes in wall planes, changes in exterior finishes, variations in fenestration, and additions to architectural detailing consistent with the Design Standards in Section 230-21.1 E.
  - (c) Driveway intersections with streets and traffic circulation patterns within lots shall be located and designed to minimize congestion and safety problems on adjacent streets and nearby intersections.
  - (d) Streetscaping to enhance the Downtown Gateway District shall be provided in a manner that is consistent with Section 230-21.1 E.(5).
  - (e) Non-residential, mixed and multi-family uses:
    - [1] The building footprint shall not exceed 40,000 square feet.
    - [2] Buildings, driveways, parking areas/loading areas, outdoor activity areas, light sources, and refuse areas shall be located and designed to minimize adverse impacts on abutting residential properties. Alternative site layouts, including increased setbacks from residential property lines; different locations of buildings, parking areas, and driveways, incorporating loading and trash collection areas as part of the principal building design; and increased screening for light sources and outdoor activity areas; may be prescribed by the Board of Adjustment, in order to limit the adverse impact of a proposed use as well as fulfill the legislative intent of the Downtown Gateway Zoning District.
    - [3] Windowless walls, if visible from a right-of-way or vehicular or pedestrian circulation area, are prohibited unless the construction of a blank wall is necessitated by local building codes, in which

case the wall should be articulated by one or more of the following: details in masonry courses; the provision of blank window openings trimmed with frames, sills and lintels; or, if the building is occupied by a commercial use, recessed or projecting display window cases.

- [4] Wall mounted, ground mounted, and rooftop heating, ventilation, air filtering, and air conditioning equipment shall be screened from view from adjacent buildings, public streets, and open space lands available for public use, in a manner that is consistent with the overall architectural design and the Design Standards in Section 230-21.1 E.
- (f) Residential uses, including single-family dwellings and two family dwellings:
  - [1] See lot size, bulk and yard requirements in Section 230 Attachment 1 - Schedule of District Regulations for R-3--Residential.
- (g) Parking garages:
  - [1] Retail store fronts or other active uses at the street level are required on front facades of parking garages. (See Table 2)
  - [2] Utilitarian appearances of parking structures, such as sloping levels and untreated concrete levels, are not permitted. Structures shall have design treatments such as colonnades, arcades, awnings, landscaping, street furniture, and other public amenities to create the appearance of an occupied building. Blank walls are not permitted.
  - [3] Cars shall be visually screened from adjacent buildings and the street and such screening shall be in keeping with the rest of the building's architectural style and materials.
  - [4] Vehicular access to parking garages shall be accessed to the side or rear of the building.

**Table 2: Cross section of parking garage with ground floor retail space**



### C. Prohibited Uses

- (1) Automobile or other vehicle sales, service or repair establishments, including vehicle body repair, vehicle painting or washing.
- (2) Gasoline service station and filling station.
- (3) Drive-through window or facilities.
- (4) Self-service storage facilities (mini-warehouses) provided, however, that self-service storage facilities existing and operating at the time of the adoption of this ordinance may continue to operate as a permitted use and may also be expanded with a special exception from the Board of Adjustment.
  - (a) The provisions of Section 230-57 B pertaining to the grant of special exceptions shall apply.
  - (b) In an application to expand an existing self-service storage facility use, the Board of Adjustment shall give primary consideration to the mandatory provision of visual screening in the form of walls or fencing in combination with suitable landscaping to reasonably shield said use and the public right-of-way and property lines.
  - (c) Such walls or fencing and landscaping must be installed prior to the expansion of the existing self-service storage use.
  - (d) Wood, vinyl or iron fencing shall be permitted. Chained link and barbed wire fencing shall be prohibited.
  - (e) Walls shall be constructed of brick or stone.
  - (f) Planted vegetation shall consist predominantly of evergreen vegetation.

- (g) Existing vegetation, if deemed suitable by the Board of Adjustment, may be used in place of required landscaping.
  - (h) Gaps shall be permitted in the visual screen to permit access to driveways and pedestrian ways and to otherwise visual access to the site in a manner that will enhance security and discourage trespassing.
- (5) Adult entertainment uses.
- (6) Uses determined by the City Council to be of similar nature to the prohibited uses listed in this Section.

#### **D. Savings Provisions for Industrial and Service Commercial Zoned Properties**

Notwithstanding anything to the contrary contained in this Section 230-21.1, Downtown Gateway District (DG) zoned properties that were previously zoned Industrial (I) or Service Commercial (SC) immediately prior to their rezoning to the Downtown Gateway (DG) classification may continue to be utilized in conformity with their prior zoning classification for a period of ten (10) years following the effective date of this Section 230-21.1 (the "Savings Period") subject to the following conditions:

- (1) Only structures existing as of the effective date of Section 230.21.1 may be utilized in a manner consistent with their prior Industrial (I) or Service Commercial (SC) zoning classification. No new structures shall be erected, and no existing structures expanded, except for uses permitted by the Downtown Gateway (DG) zoning classification
- (2) Parking, signage and other bulk area regulations for the Industrial (I) and Service Commercial (SC) zones shall apply to Industrial (I) and Service Commercial (SC) uses permitted hereunder in the Downtown Gateway (DG) zone.
- (3) Outdoor uses permitted under the Industrial (I) or Service Commercial (SC) zoning classifications shall continue to be permitted during the Savings Period.
- (4) Properties and structures affected by this Subsection D. may be used or developed for uses permitted under the Downtown Gateway (DG) zoning classification if not utilized within said ten (10) year period for uses permitted under their prior Industrial (I) or Service Commercial (SC) zoning classifications.
- (5) Properties may not be utilized for both Downtown Gateway (DG) permitted uses and Industrial (I) or Service Commercial (SC) uses at the same time pursuant to this subsection.
- (6) Industrial (I) or Service Commercial (SC) uses lawfully existing on properties rezoned to the Downtown Gateway (DG) classification and Industrial (I) or Service Commercial (SC) uses implemented during the ten (10) year Savings Period shall be considered permitted uses under this Chapter throughout the Savings Period and shall thereafter be considered non-conforming uses.
- (7) Existing structures utilized for Industrial (I) or Service Commercial (SC) uses lawfully existing on properties at the time they are rezoned to the Downtown Gateway (DG) classification and existing structures utilized for Industrial (I) or Service Commercial (SC) uses implemented during the ten (10) year Savings Period shall be considered permitted structures under this Chapter throughout the Savings Period and shall thereafter be considered non-conforming structures to the extent that such structures exceed the maximum height, or building coverage limitations or minimum setback requirements established by this Chapter.
- (8) The savings provisions of this Subsection D. shall only apply to Industrial (I) and Service Commercial zoned properties rezoned to the Downtown Gateway (DG) zoning classification at the effective date of this Section 230-21.1.

#### **E. Development Standards**

- (1) New Construction for non-residential, mixed and multi-family uses shall meet the following requirements:
- (a) Minimum Lot Size: 3,000 square feet.
  - (b) Minimum Lot Width: 25 feet.
  - (c) Build-to-Line. The build-to line for new construction shall be:
    - [1] Built to the rear of sidewalk; or
    - [2] Setback a maximum of 15 feet; or

- [3] Setback a maximum of 25 feet from the sidewalk for purposes of a plaza, square, courtyard or outdoor dining.
  - [4] No parking shall be located in this area.
  - [5] A minimum of 75% of the facade of any building along a public street must be constructed at the build-to line.
  - [6] Sidewalk encroachment: Pedestrian-oriented features of buildings, such as entrance hoods, stoops, awnings, canopies, roof overhangs and arcades with unoccupied floor space above, may encroach upon the sidewalk up to 8 feet. In no case may such encroachments result in an obstruction to pedestrian movement. An unobstructed pedestrian passageway at least 5 feet wide must be maintained at all locations.
- (d) Side Yard Setback. There shall be no side yard setback required for buildings that share a party wall. The side yard setback for detached buildings shall be 10 feet.
  - (e) Rear Yard Setback.
    - [1] Adjacent to non-residential and mixed uses: 10 feet
    - [2] Adjacent to residential: 10 feet. In addition, an opaque evergreen vegetated buffer at least 6' in height and 3' in depth at time of planting shall be provided and maintained.
  - (f) Maximum Impervious Coverage: 80 percent.
  - (g) Building Height. Buildings shall be a maximum height of 3 stories or 45 feet. Maximum height does not include additional height of screening of rooftop mechanical systems.
  - (h) Maximum Building Footprint for Nonresidential Buildings: 40,000 square feet.

**F. Design standards.**

- (1) To ensure that all new development in the Downtown Gateway District will be pedestrian in scale and walkable, all development in the District shall meet the following design standards.
- (2) Building Design Standards. New construction shall meet the following requirements:
  - (a) Building Character: New development shall generally employ building types that are compatible to the existing architecture of the adjacent downtown area in their massing and external treatment.
  - (b) Building Orientation and Entrances:
    - [1] The front façade of buildings shall be oriented towards the street and sidewalk, with the primary entrance located in this front façade.
    - [2] Buildings located on a corner lot shall be oriented to the primary street as determined by the City Codes Officer and orientation to both public streets is encouraged.
    - [3] All primary building entrances shall be accentuated. Entrance accentuations may include recessed or protruding entrances and/or the use of canopies, porticos or overhangs.
  - (c) Windows:
    - [1] Windows should be appropriate to the architectural style, materials and detailing of the building. To the greatest extent possible, windows should be proportioned vertically.
    - [2] The ground floor front façades of retail buildings shall include a minimum of 40 percent and a maximum of 75 percent window with views provided through these windows into the business.
    - [3] Upper story windows of front façades shall not be boarded or covered and facades shall include windows in the façade above the ground floor.
    - [4] Upper story windows should be aligned with windows and doors on the first floor.
    - [5] Smoked, reflective, opaque or black glass in windows is prohibited.
  - (d) Roofs:

- [1] The following roof types are encouraged: gable, cross gable and flat roofs with a decorative cornice line or parapet.
- [2] Flat roofs shall be prohibited on one-story buildings but are allowed on buildings of two stories or more, provided that all visibly exposed walls have an articulated cornice that projects horizontally from the vertical building wall plane.

(e) Façade Articulation.

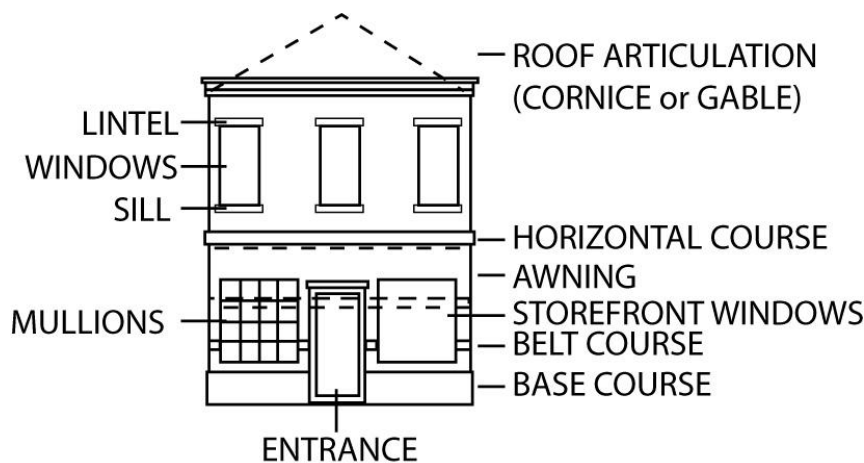
- [1] Facades shall have horizontal articulation elements. At a minimum, facades shall have the following horizontal elements window sills, window lintels, protruding horizontal courses on each floor of the building and cornices. See Table 3.
- [2] Facades shall have a distinct base of at least eighteen inches in height at ground level using materials that are different from the main façade such as stone, masonry or decorative concrete. See Table 3.
- [3] Facades shall have vertical articulation at a maximum distance of every 30 feet of continuous façade. Vertical articulation shall be created through changes in plane or building material for a minimum of 1 foot wide and protruding a minimum of 2 inches. See Table 3.
- [4] The top level should be treated with a distinct outline with elements such as projecting parapet, cornice or other projection. See Table 3.
- [5] To further articulate the building facade and increase architectural interest while facilitating all-weather comfort of pedestrians, continuous awnings (both permanent and retractable), canopies and building overhangs, including arcade structures with occupied space above, are strongly encouraged along the street frontages.

(3) Design standards for improvements to and reuse of existing buildings.

- (a) The City Council expects that where an applicant is improving or changing an existing structure to accommodate a change in use, the applicant will attempt to integrate any of the following design standards that are relevant to the improvements being completed. The applicant shall illustrate how a new use within an existing structure attempts to accommodate the following standards:

- [1] Locate primary building entrances toward the street.
- [2] Provide more than 25% transparent or translucent materials on each story below the roofline.
- [3] Locate parking to the side or rear of the principal building.
- [4] Utilize pedestrian scale façade articulation and changes in plane on all facades to distinguish each building story and imply regularly spaced storefronts between 20 to 40 feet.

**Table 3: Illustrations of Façade Articulation**







#### (4) Surface Parking Standard.

##### (a) General Standards (In addition to the requirements of 230-28):

- [1] Vehicular Access. Vehicular access to surface parking shall be from an alley or the secondary street frontage where possible.
- [2] Pedestrian Access. Safe provisions for pedestrian access to and through a parking lot shall be required. Pedestrian walkways through the surface parking shall connect to sidewalks along public streets.
- [3] Location of Surface Parking:
  - [a] All off-street parking spaces shall be located to the side or rear of the principal structure occupying a lot. No off-street parking shall be permitted in the front yard.
  - [b] Surface parking shall be set back 5 feet from the sidewalk.
- [4] See Section 230-28 G. for additional parking area standards for multi-family residential and non-residential developments.

##### (b) Interconnected Parking Areas:

- [1] Parking areas on abutting nonresidential lots shall be interconnected by access driveways wherever possible.
- [2] Each parking lot shall provide cross access easements for its parking areas and access driveways guaranteeing access to adjacent lots. Interconnections shall be logically placed and easily identifiable to ensure convenient traffic flow.

##### (c) The number of parking spaces shall be provided in accordance with 230-28 A (15), Parking and Access, of the Zoning Ordinance.

(5) Streetscape Standards

- (a) All developments in the DG Districts shall be required to provide and maintain the following improvements along the entire length of all public streets on which they obtain frontage:
  - [1] Public sidewalks shall have a minimum unobstructed width of 10 feet in commercial areas.
    - [a] The Planning Commission may alter this if necessary if it is demonstrated that existing topographic conditions make this standard not feasible. However, the unobstructed width of a sidewalk shall not be less than 5 feet.
  - [2] Street shade trees shall be planted at a maximum spacing of 40 feet on center. Street shade trees may be planted in tree pits, a minimum of four feet wide and six feet long, or in a continuous tree lawn, a minimum of three feet in width, located between the curb and the sidewalk.
  - [3] Pedestrian-oriented lighting at a maximum spacing of 50 feet or as recommended by the manufacturer to achieve adequate levels of sidewalk illumination.
  - [4] Benches and other street furniture at appropriate locations, subject to the review and recommendation of the Planning Commission and approval of City Council.
  - [5] Bulbout plus stamped concrete paving to match brick borders in color, texture and size for properties at corner locations

(6) Signage. Signage within the DG Districts shall conform to the requirements of § 230-37 and the following additional standards:

- (a) All signs in the DG Districts shall be pedestrian-oriented and not distract from the overall appearance of the building.
- (b) All signs in the DG Districts shall be constructed of high-quality materials.
- (c) Lettering on awnings shall be limited to the vertical surface or edge.
- (d) Rooftop signs shall be prohibited.

(7) Lighting.

- (a) All building lighting shall be down lighting.
- (b) Lighting fixtures shall not exceed the height of the principal building on the site.

(8) Screening:

- (a) The purpose of a screen is to provide a visual barrier between unsightly or out of scale development features and the views from public streets and abutting properties.
- (b) All rooftop mechanical equipment and other appurtenances shall be concealed by or integrated within the roof form or screened from view at ground level of nearby streets. The following, when above the roofline, requires screening: stair wells, elevator shafts, air conditioning units, large vents, heat pumps, mechanical equipment and parked vehicles (in the case of rooftop parking). The screening of mechanical equipment shall not be subject to the maximum height requirements if it is unoccupied.
- (c) Service and loading areas, including dumpster, trash handling and recycling, outdoor storage, vehicle storage, loading docks and wall or ground mounted equipment, shall be located on the side or rear of the building and shall be visually screened from street and pedestrian ways with an opaque screen that may be composed of:
  - [1] A brick or stone wall.
  - [2] Wooden fence.
  - [3] Vinyl fence designed to look like wood.
  - [4] Planted vegetation, in which:
    - [a] All evergreen trees to be installed shall not be less than six feet in height at the time of planting and shall be of such species that expected height at maturity shall not be less than 15 feet.

[b] 100% percent of required trees and at least 75% percent of required shrubs shall be evergreen species.

[c] Shrub plantings shall be a minimum of 3 feet high upon installation, with an expected height of at least 6 feet at maturity, no unobstructed openings wider than 4 feet will be permitted.

[5] Existing vegetation, if deemed suitable by the City Code Official may be used in place of required landscaping.

[6] A combination of these elements, which will meet the purpose of the requirement.

(9) Outdoor Dining:

(a) Outdoor furnishings are limited to tables, chairs and umbrellas.

(b) Planters, posts with ropes or other removable enclosures, as well as a reservation podium are encouraged and shall be used as a way of defining the area occupied by the café.

(c) Refuse facilities shall be provided.

(d) Advertising or promotional features shall be limited to umbrellas, menu signs, sandwich board signs and canopies.

(e) Outdoor dining can not impede pedestrian traffic flow. A minimum pathway of at least 5 feet free of obstacles shall be maintained.

(10) Fences. Chain link fence and strictly functional design fence is prohibited.

(11) Ventilation equipment for restaurants, bars and taverns in buildings erected after the passage of this Section shall be provided on the roof.

\* \* \*

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Ordinances or portions of Ordinances in conflict herewith are hereby repealed; provided that any such repeal shall not abate a right of action already accrued under any repealed Ordinance.

This Ordinance shall become effective immediately upon passage.

First Reading: June 5, 2012

Second Reading: June 5, 2012

Third Reading: June 12, 2012

Signed:

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William Barthel, Council President

I hereby certify that the foregoing Ordinance was duly approved by a majority of the Council of New Castle upon the dates above set forth and signed by the President of the Council.

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Michael Dickinson, City Clerk

Approved this \_\_\_\_ day of \_\_\_\_\_, 2012

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Donald A. Reese, Mayor