

© 2006, Bradley E. Johnson, AICP

The purposes of the Downtown Birmingham Overlay District are to:

- A. Encourage and direct development within the boundaries of the Downtown Birmingham Overlay District and implement the Downtown Birmingham 2016 Plan;
  - B. Encourage a form of development that will achieve the physical qualities necessary to maintain and enhance the economic vitality of Downtown Birmingham and to maintain the desired character of the City of Birmingham as stated in the Downtown Birmingham 2016 Plan;
  - C. Encourage the renovation of buildings; ensure that new buildings are compatible with their context and the desired character of the city; ensure that all uses relate to the pedestrian; and, ensure that retail be safeguarded along specific street frontages; and
  - D. Ensure that new buildings are compatible with and enhance the historic districts which reflect the city's cultural, social, economic, political, and architectural heritage.
- 
- A. The Downtown Birmingham Overlay District shall be an overlay district that applies over the existing zoning districts.
  - B. Use and development of land within the Downtown Birmingham Overlay District shall be regulated as follows:
    - 1. Any existing use shall be permitted to continue and the use shall be subject to the underlying zoning requirements and not the Downtown Birmingham Overlay District.
    - 2. Where the usage within an existing building is proposed to be expanded by more than 50% of the existing size, the new use shall be subject to the building use standards of the Downtown Birmingham Overlay District to the maximum extent practical, as determined by the Planning Board.
    - 3. Any expansion to an existing building that expands the area of the building by more than 40% of the existing building area shall subject the entire building to the requirements of the Downtown Birmingham Overlay District and shall be brought into compliance with the requirements of the Downtown Birmingham Overlay District to the maximum extent practical, as determined by the Planning Board.
    - 4. Where a new building is proposed, the use and site shall be subject to the requirements of the Downtown Birmingham Overlay District.
  - C. Development applications within the Downtown Birmingham Overlay District shall be required to follow the Site Plan Review and Design Review standards contained in Article 7.
  - D. A Downtown Birmingham Overlay District Regulating Plan has been adopted that divides the Downtown Birmingham Overlay District into zones. Each zone designated on the Regulating Plan prescribes requirements for building form, height and use as follows:
    - D2: Downtown Two or Three Stories
    - D3: Downtown Three or Four Stories
    - D4: Downtown Four or Five Stories
    - C: Community Use
    - P: Parking
- 
- A. The design of buildings and sites shall be regulated by the provisions of the Downtown Birmingham Overlay District.
  - B. Section 3.01 to Section 3.04 shall govern the design of all privately owned land within the Downtown Birmingham Overlay District.
  - C. The provisions of the Downtown Birmingham Overlay District, when in conflict with other articles of the Zoning Ordinance, shall take precedence.
  - D. The provisions of the Downtown Birmingham Overlay District shall specifically supersede the floor-area-ratio, maximum height, band minimum setback regulations contained in each two-page layout in Article 2 of the Zoning Ordinance.

- E. The provisions of the building and building regulations Chapter 22 of the Birmingham City Code and the historic preservation regulations in Chapter 62 of the Birmingham City Code, when in conflict with the Downtown Birmingham Overlay District, shall take precedence.
  - F. The design of community buildings and improvements shall not be subject to the specific standards of this article, but shall be subject to design review by the Planning Board.
  - G. Locations designated on the Regulating Plan for new parking garages and civic buildings shall be reserved for such development.
- A. Building Height, Overlay: The various elements of building height shall be determined as follows for the various zones designated on the Regulating Plan:
1. D2 Zone (two or three stories):
    - a. Eave line for sloped roofs shall be no more than 34 feet.
    - b. Peak or ridge of any sloped roof shall be no more than 46 feet as measured to the average grade.
    - c. Maximum overall height including the mechanical and other equipment shall be no more than 56 feet.
    - d. A third story is permitted if it is used only for residential.
    - e. All buildings in D2 Zone containing a third story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.
    - f. A third story shall continue in a different plane, beginning at the eave line, not greater than 45 degrees measured to the horizontal or setback 10 feet from any building facade.
    - g. All buildings constructed in the D2 Zone must have a minimum eave height of 20 feet.
  2. D3 Zone (three or four stories):
    - a. Eave line for sloped roofs shall be no more than 46 feet.
    - b. Peak or ridge of any sloped roof shall be no more than 58 feet as measured to the average grade.
    - c. Maximum overall height including the mechanical and other equipment shall be no more than 68 feet.
    - d. A fourth story is permitted if it is used only for residential.
    - e. All buildings in D3 Zone containing a fourth story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.
    - f. The fourth story shall continue in a different plane, beginning at the eave line, no greater than 45 degrees measured to the horizontal or setback 10 feet from any building facade.
    - g. All buildings constructed in a D3 Zone must contain a minimum of 2 stories and must have a minimum eave height of 20 feet.
  3. D4 Zone (four or five stories):
    - a. Eave line shall be no more than 58 feet.
    - b. Peak or ridge of any sloped roof shall be no more than 70 feet as measured to the average grade.
    - c. Maximum overall height including mechanical and other equipment shall be no more than 80 feet.
    - d. The fifth story is permitted if it is used only for residential.
    - e. All buildings containing a fifth story should be designed harmoniously with adjacent structures in terms of mass, scale and proportion, to the best extent possible.
    - f. The fifth story shall continue in a different plane, beginning at the eave line, no greater than 45 degrees measured to the horizontal or set back 10 feet from any building facade.
    - g. All buildings constructed in the D4 Zone must contain a minimum of 2 stories and must have a minimum eave height of 20 feet.
  4. C and P Zones: Downtown Birmingham Overlay District building height shall comply with the underlying height restrictions listed in each two-page layout in Article 2 of the Zoning Ordinance, but may be negotiated by the Planning Board.
  5. Stories at sidewalk level shall be a minimum of 10 feet in height from finished floor to finished ceiling. The Planning Board may reduce this standard for renovations to existing buildings that do not meet this standard.
  6. A transition line shall be provided between the first and second stories. The transition shall be detailed to facilitate an awning.

7. The maximum width of all dormers per street elevation on buildings may not exceed 33% of the width of the roof plane on the street elevation on which they are located.
- B. Building placement. Buildings and their elements shall be placed on lots as follows:
1. Front building facades at the first story shall be located at the frontage line, except the Planning Board may adjust the required front yard to the average front setback of any abutting building.
  2. In the absence of a building facade, a screenwall shall be built along the frontage line and aligned with the adjacent building facade. Screenwalls shall be between 2.5 and 3.5 feet in height and made of brick, stone or other masonry material matching the building. Upon approval by the Planning Board, screenwalls may be a continuous, maintained evergreen hedge or metal fencing. Screenwalls may have openings a maximum of 25 feet to allow vehicular and pedestrian access.
  3. Side setbacks shall not be required.
  4. A minimum of 10 foot rear yard setback shall be provided from the midpoint of the alley, except that the Planning Board may allow this setback to be reduced or eliminated. In the absence of an alley, the rear setback shall be equal to that of an adjacent, preexisting building.
  5. First-floor awnings may encroach upon the frontage line and public sidewalk, but must avoid the street trees; provide at least 8 feet of clearance above the sidewalk; and be set back a minimum of 2 feet from the road curb.
  6. Upper-floor awnings shall be permitted only on vertically proportioned windows, provided that the awning is only the width of the window, encroaches upon the frontage line no more than 3 feet, and is not used as a backlit sign.
  7. Loading docks and service areas shall be permitted only within rear yards. Doors for access to interior loading docks and service areas shall not face a public street.
  8. All buildings shall have their principal pedestrian entrance on a frontage line.
- C. Building use. Buildings shall accommodate the following range of uses for the various designations on the Regulating Plan of the Downtown Birmingham Overlay District:
1. Uses shall be limited to those allowed in each underlying zoning district, unless otherwise specifically provided for herein.
  2. The following uses and conditions are prohibited:
    - a. Automatic food and drink vending machines outdoors;
    - b. Drive-in facilities or any commercial use that encourages patrons to remain in their automobiles while receiving goods or services;
    - c. Outdoor advertising.
  3. Community uses (C).
  4. Those sites designated as parking uses (P) on the Regulating Plan shall be premises used primarily for parking, except retail frontages shall be encouraged at the first floor level.
  5. Those sites designated D2 Zone, D3 Zone, or D4 Zone on the Regulating Plan may be used for any commercial, office or residential use as allowed in the underlying zoning district. Upper story uses may be commercial, office or residential, provided that no commercial or office use shall be located on a story above a residential use.
  6. Buildings that have frontage along the required retail frontages, as specified on the Regulating Plan, shall consist of retail with a minimum depth of 20 feet from the frontage line within the first story. Lobbies for hotels, offices, and multiple-family dwellings may be considered as part of the required retail frontage, provided that any such lobby occupies no more than 50% of the frontage of said building.
  7. Retail, office or residential uses are required to have minimum depth of 20 feet from the frontage line on all stories. The remaining depth may be used for off-street parking. Parking access on a frontage line shall be an opening a maximum of 25 feet wide. Openings for parking garage access shall repeat the same rhythm and proportion as the rest of the building to maintain a consistent streetscape.
  8. In any D2 Zone, D3 Zone, or D4 Zone, the first floor shall consist of retail with a minimum depth of 20 feet from the frontage line where designated on the Regulating Plan as a retail frontage line in conformance with Section 3.04(C)(5) and Section 3.04(C)(6).

9. Office use is limited to one story, except:
    - a. In any D3 Zone or D4 Zone, a two-story building dedicated to office use is permissible; and
    - b. In a D4 Zone, two stories may be dedicated to office use when the Planning Board permits a fifth story.
  10. Bistros are permitted with a valid Special Land Use Permit with the following conditions:
    - a. No direct connect additional bar permit is allowed and the maximum seating at a bar cannot exceed 10 seats;
    - b. Alcohol is served only to seated patrons, except those standing in a defined bar area;
    - c. No dance area is provided;
    - d. Only low key entertainment is permitted;
    - e. Bistros must have tables located in the storefront space lining any street, or pedestrian passage;
    - f. A minimum of 70% glazing must be provided along building facades facing a street or pedestrian passage between 1 foot and 8 feet in height;
    - g. All bistro owners must execute a contract with the City outlining the details of the operation of the bistro; and
    - h. Outdoor dining must be provided, weather permitting, along an adjacent street or passage during the months of May through October each year. Outdoor dining is not permitted past 12:00 a.m. If there is not sufficient space to permit such dining on the sidewalk adjacent to the bistro, an elevated, ADA compliant, enclosed platform must be erected on the street adjacent to the bistro to create an outdoor dining area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.
  11. Establishments operating with a liquor license obtained under Chapter 10, Alcoholic Liquors, Article II, Division 3, Licenses for Economic Development, are permitted with a valid Special Land Use Permit only on those parcels on Woodward Avenue identified on Exhibit 1; Appendix C.
- D. Parking requirements.
1. For all nonresidential uses located within the parking assessment district, parking on the site shall not be required, provided such site is in full compliance with the requirements of the parking assessment district.
  2. For all residential uses located within the parking assessment district, the on-site parking requirements contained in Section 4.46, Section 4.49, Section 4.50 and Section 4.51 may be complied with through leasing the required spaces from an off-site parking area, provided the requirements of Section 4.45(G) are met and all parking is supplied on site or within 300 feet of the residential lobby entrance of the building.
  3. For all sites located outside of the parking assessment district, off-street parking must be provided in accordance with the requirements of Article 4 for parking, loading and screening.
  4. Notwithstanding the above regulations, residential dwelling units within the existing second and third floors of landmark buildings, as defined in Section 62-87 of the Birmingham City Code, located within the central business historic district are exempt from required off-street parking requirements.
  5. Off-street parking contained in the first story shall not be permitted within 20 feet of any building facade on a frontage line or between the building facade and the frontage line.
  6. The placement of two abutting off-street parking lots with continuous street frontages shall not be permitted.
- E. Architectural standards. All buildings shall be subject to the following physical requirements:
1. At least 90% of the exterior finish material on all facades that face a street shall be limited to the following: glass, brick, cut stone, cast stone, coarsely textured stucco, or wood. Dryvit or E.F.I.S is prohibited.
  2. The primary colors of building exteriors shall be compatible with the colors of adjacent buildings and in character with the surrounding area, although the trim may be of a contrasting color.
  3. Blank walls shall not face a public street. Walls facing a public street shall include windows and architectural features customarily found on the front facade of a building, such as awnings, cornice work, edge detailing or decorative finish materials.
  4. Storefronts shall be directly accessible from public sidewalks. Each storefront must have transparent areas, equal to 70% of its portion of the facade, between one and eight feet from the ground. The wood or metal armature (structural elements to support canopies or signage) of such storefronts shall be painted, bronze, or powder-coated.

5. Storefronts shall have mullion systems, with doorways and signage integrally designed. Mullion systems shall be painted, powder-coated, or stained.
6. The glazed area of a facade above the first floor shall not exceed 35% of the total area, with each facade being calculated independently.
7. Glass shall be clear or lightly tinted only. Opaque applications shall not be applied to the glass surface.
8. Facade openings, including porches, windows, and colonnades, shall be vertical in proportion.
9. Sliding doors and sliding windows are prohibited along frontage lines.
10. (Reserved for future use.)
11. Cantilevered mansard roofs are prohibited.
12. Balconies, railings, and porch structures shall be metal, wood, cast concrete, or stone.
13. Facades may be supplemented by awnings, which shall be straight sheds without side flaps, not cubed or curved. Awnings shall be between 8 and 12 feet above sidewalk grade at the lower drip edge.
14. Outside dining tables and chairs shall be primarily metal, wood, or similar material. Plastic outside dining tables and chairs shall be prohibited.
15. Any building that terminates a view, as designated on the Regulating Plan, shall provide distinct and prominent architectural features of enhanced character and visibility, which reflect the importance of the building's location and create a positive visual landmark.
16. Flat roofs shall be enclosed by parapets. Rooftop mechanical and other equipment shall be limited, positioned and screened to minimize views from adjacent properties and public rights-of-way in accordance with the regulations set forth in Section 4.16, Section 4.18, and Section 4.53.

F. Signage Standards. Signage, when provided, shall be as follows:

1. Building Sign Design Plan: For all newly constructed or exterior renovated buildings, an overall building sign design plan shall be approved by the appropriate reviewing body.
2. Design: Signage shall be integrally designed and painted with the storefront.
3. Address Numbers: Address numbers shall be a maximum of 8 inches in vertical dimension.
4. Sign Band:
  - a. General: A single external sign band or zone may be applied to the facade of a building between the first and second floors, provided that it shall be a maximum of 1.5 feet in vertical dimension by any horizontal dimension.
  - b. Woodward Avenue Address: The external sign band or zone shall be a maximum of 2 feet in vertical dimension by any horizontal dimension. The sign band or zone may contain multiple individual signs, but all must refer to a tenant of the building whose principal square footage is on the first floor.
  - c. Lowercase letters with ascenders and descenders that extend beyond the limits of the sign height by a maximum of 50% will not be calculated into total sign area.
  - d. Each business whose principal square footage is on the first story, may have one sign per entry.
  - e. Where the Historic District Commission, Design Review Board or Planning Board has determined that a horizontal sign band is not architecturally feasible based on building design, an alternative design will be considered, provided the following conditions are met:
    - i. The sign must fit within the total sign area allowed for the business;
    - ii. The sign must be compatible with the building's street design and will enhance the streetscape.
    - iii. The sign adheres to the goals of the 2016 Plan.
5. Building Identification:
  - a. Signage identifying the entire structure by a building name may be permitted on the sign band.
  - b. One sign will be allowed on the principal building frontage.
  - c. Two identical signs will be allowed on each elevation of a corner building.
  - d. Non-illuminated signs identifying the entire structure by a building name may be permitted above the first floor provided the following conditions apply:
    - i. The building must be located on Woodward;
    - ii. A tenant name must have legal naming rights to the building;
    - iii. The sign must be located on the top floor; and
    - iv. Only one Building Identification sign may be located on the principal building frontage.

6. Tenant Directory Sign: A directory sign may be comprised of individual nameplates no larger than one square foot each, or a changeable copy board for characters not exceeding one inch in height.
7. Additional Signs: Additional pedestrian signs for first floor tenants shall meet the following requirements:
  - a. These signs shall be attached to a building perpendicular to the facade, and extend up to 4 feet from the facade.
  - b. These signs shall be a maximum of 1.5 feet in vertical dimension and 4 feet in horizontal dimension.
  - c. There may be one (1) individual pedestrian sign for each business located on the first floor, provided that such signs are spaced no less than 20 feet apart horizontally; this shall not deny any first floor place of business at least one projecting sign.
8. Glass: The storefront glass may be stenciled with signage not to exceed 1.5 feet in vertical dimension and 4 feet in horizontal dimension.
9. First Floor Awning: The valance shall not be more than 9 inches in height. The valance of an awning may be stenciled with signage totaling no more than 33% of the valance area.
10. Lighting:
  - a. General: External signs shall not be internally illuminated, but may be back lit or externally lit.
  - b. Woodward Avenue Address: External signs may be internally illuminated.

# Overlay Zoning Districts

- C
- D-2
- D-3
- D-4
- P
- Terminating Vistas
- Retail Frontage (Redline Retail)
- Downtown Overlay Boundary

