



Date: 27 April 2006

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## **Legislation Adopting SmartCode Introduced in the Buffalo Common Council** *Momentum Builds After Leaders Attend Nation's Premier Planning Conference*

Buffalo, NY — A resolution calling for the adoption of the progressive SmartCode was introduced today in the Buffalo Common Council. The City of Buffalo's Comprehensive Plan calls for a revised zoning code that incorporates Smart Growth and traditional neighborhood design. The adoption of the SmartCode will mark a major step forward towards implementation of Buffalo's Comprehensive Plan.

The resolution comes after the New Millennium Group of WNY, Inc (NMG) in partnership with The Baird Foundation and The Margaret L. Wendt Foundation, sponsored a delegation of local leaders that attended the Sixth Annual SmartCode Workshop on March 2-4 in Biloxi, Mississippi. The SmartCode conference is considered to be the nation's premier urban planning conference.

NMG, the Baird Foundation and the Wendt Foundation, have long been key players in bringing new ideas and a different way of thinking to our region. Funding this conference was just another in along series of pro-Buffalo/Niagara efforts of these organizations.

"Educating the political and business establishment on new policies and the best practices in urban planning will promote economic development, job creation and urban-friendly growth that is crucial to the revitalization efforts of Buffalo," said Chris Hawley, chairman of NMG's Downtown Action Group.

Smart Growth creates authentic and energetic neighborhoods that contain homes, apartments, parks, restaurants, retail stores, and other businesses all within walking distance. Importantly, Smart Growth reconnects the public to its community and draws talented and enterprising people who appreciate dynamic and charming urban places.

Smart Growth principles are implemented via the SmartCode, a modern, state-of-the-art zoning code. The SmartCode discourages wasteful sprawl while encouraging inward investment and job growth.

Councilmen Richard Fontana and Michael Kearns, co-sponsors of the resolution, were two of the local leaders who attended the SmartCode planning conference.

"The City of Buffalo will become the largest city in the United States to adopt the SmartCode, making us a nationwide model for progressive urban planning and economic development policy," said Fontana.

Kearns added, "Buffalo must seek solutions to streamline the permitting process through ordinances like the SmartCode that are simple to administer, are easy to understand, and provide predictability and clarity for citizens and investors alike."

In addition to Fontana and Kearns, other local officials who attended the planning conference included Larry Rubin, Erie County Attorney; Bob Seinkowicz, Chief of Staff to Council President David Franczyk; and Kevin Linder, Council Legal Assistant.

"Bringing the SmartCode to Buffalo will elevate the region's quality of life by creating vibrant, walkable neighborhoods of lasting value," said Chris Hawley.

For more details on the SmartCode visit <http://www.placemakers.com>.

*The New Millennium Group of Western New York, Inc. is a non-political, 501c3 non-profit, all volunteer, community benefit organization. For more information, visit [www.nmgonline.org](http://www.nmgonline.org).*

**RESOLUTION SUPPORTING THE IMPLEMENTATION OF  
THE SMARTCODE IN THE CITY OF BUFFALO**

WHEREAS, the City of Buffalo is in a worldwide competition to attract and retain talented people as a global economy puts greater pressure on cities to restore their urbanism, vitality and sense of place.

WHEREAS, placemaking has become an essential economic development tool that must be addressed by unified development codes embracing good urban design and walkable, mixed-use neighborhoods.

WHEREAS, conventional suburban development has continued to erode civic value in neighborhoods throughout Buffalo by promoting automobile-focused sprawl over urban density, walkability, and long-term economic growth.

WHEREAS, it is widely accepted that urban character and sense of place is the reason many neighborhoods in Buffalo are enjoying greater private-sector investment.

WHEREAS, the City must streamline the development permitting process through codes that are simple to administer, are easy to understand, and provide predictability and clarity for citizens and investors alike.

WHEREAS, the City of Buffalo's zoning ordinance, enacted in 1951, largely overlooks the city's need for mixed uses and sound urban design in responding to the demands of a knowledge-based, 21<sup>st</sup> century economy.

WHEREAS, the City of Buffalo Comprehensive Plan already calls for a revised zoning code that reflects Smart Growth and traditional neighborhood design (TND) principles:

“The Comprehensive Plan also needs a revised zoning ordinance to give it full effect. Such an ordinance must reflect the Comprehensive Plan and its Smart Growth principles. As such, it can provide the measure of predictability and certainty that both investors and citizens require. Without a companion zoning ordinance the Comprehensive Plan will lack the enforceability that will make it credible and achievable. [...]”

“Revised zoning categories and districts and a revised zoning map to reflect and support the Comprehensive Plan and the principles of Smart Growth should be prepared by the Office of Strategic Planning (OSP) as soon as possible. It will be one of the City's principal tools for implementing the Plan.” (p. 58)

WHEREAS, cities across the country, including Chicago, Milwaukee, Nashville, TN, Montgomery, AL, and Rochester, NY are already witnessing demonstrated economic growth attributed to the adoption of streamlined, form-based codes.

WHEREAS, the SmartCode, devised by renowned planning firm Duany Plater-Zyberk, is the most comprehensive and locally-adaptable form-based code developed to date.

WHEREAS, the SmartCode is the first planning tool that integrates land use, urban form and streetscape design to frame predictable rules for vital, walkable places that provide investors with an inviting, stable, and predictable investment environment.

WHEREAS, the SmartCode is designed to codify the city's vision for future development into law, assuring that good plans no longer collect dust on City Hall shelves, but are finally implemented as a matter of enforceable policy.

WHEREAS, the city's continued population loss and economic stagnation make a strong case for new ways of thinking about how to attract investment, create jobs, and uplift the prospects of every city neighborhood.

NOW, THEREFORE, BE IT RESOLVED that the Common Council endorses the implementation of the SmartCode in the City of Buffalo.

BE IT FURTHER RESOLVED that the Common Council announces its support and sponsorship of the upcoming, citizen-organized SmartCode 101 Conference as one of the first stages in the local calibration and implementation of the SmartCode in the City of Buffalo.

BE IT FURTHER RESOLVED that the Common Council calls upon the Mayor's Office of Strategic Planning to begin immediate study to implement the SmartCode in the City of Buffalo as the key component in implementing the Comprehensive Plan.

BE IT FURTHER RESOLVED that the City Clerk send a certified copy of this resolution to the Office of Mayor Byron Brown, the Mayor's Office of Strategic Planning, and the Department of Economic Development, Permit and Inspection Services.

# SmartCode Facts

**The SmartCode is a unified land development ordinance** for planning and urban design. It folds zoning, subdivision regulations, urban design, and basic architectural standards into one compact document.

Because the SmartCode enables community vision by coding specific outcomes that are desired in particular places, **it is meant to be locally customized** by professional planners, architects, and attorneys.

**Important: The SmartCode is not a building code.** Building codes address life/safety issues such as fire and storm protection. Examples of building codes include the IBC, IRC, and ICC documents.

**The SmartCode supports these outcomes:** community vision, local character, conservation of open lands, transit options, and walkable and mixed-use neighborhoods.

**It prevents these outcomes:** wasteful sprawl development, automobile-dominated streets, empty downtowns, and a hostile public realm.

**It allows different approaches in different areas within the community,** unlike a one-size-fits-all conventional code. This gives the SmartCode unusual political power, as it permits buy-in from all stakeholders.

**The SmartCode is considered a “form-based code”** because it strongly addresses the physical form of building and development. Conventional zoning codes are based primarily on use and density. They have caused systemic problems over the past sixty years by separating uses, making mixed-use and walkable neighborhoods essentially illegal.

**The SmartCode is also a transect-based code.** A “transect” is usually seen as a continuous cross-section of natural habitats for plants and animals, ranging from shorelines to wetlands to uplands. **The specific transect that the SmartCode uses is based on the human habitat,** ranging from the most rural environments to the most urban environments. This transect is divided into a range of “Transect Zones,” each with its own complex character. It ensures that a community offers a full diversity of building types, thoroughfare types, and civic space types, and that each has appropriate characteristics for its location.

**The six T-Zones are: T-1 Natural, T-2 Rural, T-3 Sub-Urban, T-4 General Urban, T-5 Urban Center, and T-6 Urban Core.**

**The Transect is a powerful tool because its standards can be coordinated across many other disciplines and documents,** including ITE (transportation), and LEED (environmental performance). Thus the SmartCode integrates the design protocols of a variety of specialties, including traffic engineering, public works, town planning, architecture, landscape architecture, and ecology.

**The SmartCode addresses development patterns at three scales of planning:**

- the **Sector** (Regional) Scale
- the **Community** Scale
- the **Block and Building** Scale.

Thus it may replace a number of other documents. Its text is only 28 pages, plus Tables & Definitions. If stronger architectural guidelines are desired, a community may adopt supplemental regulations or a pattern book.

The *SmartCode & Manual* can be downloaded at <http://placemakers.com/info/SCdownloads.html>. The next SmartCode Workshop is March 2-4, 2006, in Biloxi, Mississippi.

## SmartCode FAQ

### Why is the SmartCode recommended over conventional zoning ordinances and subdivision regulations?

The SmartCode is designed to *produce* desired outcomes, development types that have historically shown to be economically sustainable as well as attractive to residents and visitors. The SmartCode does this by putting a greater emphasis on the “form” of development and less of an emphasis on “use”. Conventional regulations are designed to *prohibit* undesirable outcomes but do not include measures to *produce* desirable outcomes. Instead, conventional regulations tend to promote sprawl development because of oversimplified, and sometimes, arbitrary approaches to land use-separation, density limitation, and public improvements standards.

### Administratively, what is different in the SmartCode versus traditional development regulations?

SmartCode is a “unified code”, combining zoning with subdivision regulations, landscape requirements, and public improvements standards. This is part of its strength, in that it avoids conflicts and redundancy between these types of regulations.

Also, the SmartCode is administered by a Consolidated Review Committee (CRC), which represents each of the regulating agencies that have jurisdiction (i.e. City Council, Planning Commission, Design Review Committee, etc.). The intent of the CRC, and one of the incentives offered by the SmartCode, is to expedite review and approval of SmartCode projects through the CRC rather than the multi-stepped process required under conventional regulations. The intent is to make conventional sprawl developments go through the normal review process, which is time-intensive, while making it easier for “smart growth” projects. The model version of the SmartCode also allows municipalities to process project applications under the SmartCode ahead of other development applications.

### Is the SmartCode intended to completely replace zoning and subdivision regulations?

Authors do not recommend doing away with the municipal zoning ordinance, because they include specific regulations unique to community preferences, such as limitations on cell towers, manufactured home parks, etc. The SmartCode, intentionally, does not address all of these elements. For most communities, it is recommended as a “parallel code”, in which an applicant can follow the conventional municipal regulations **or** the SmartCode. Some cities have adopted portions of the SmartCode to apply as a mandatory code in specific locations, such as historic downtown areas.

### What are the driving principles of the SmartCode?

The SmartCode establishes that there are commonly-accepted qualities associated with the different areas that make up a community, county or region - from the very urban to the very rural. This is referred to as the **transect**. Within the six principal zones of the transect, a high-quality public realm is the primary objective. Within each transect or “T” zone, there are appropriate levels of **walkability**, **diversity**, and **density**. In rural areas, natural preservation, low density, and vehicular accessibility are dominant. In more urban areas, mixed-uses, high-density, and pedestrian (and transit) accessibility are dominant.

### Can the SmartCode be changed to suit local character, needs, or issues?

Yes, the SmartCode is intended to be calibrated to local conditions by addressing the particular uses and dimensional requirements of T-zones. However, it is very important that the impact of changes made to the SmartCode do not unintentionally weaken its ability to produce more walkable, growth-controlled communities. When “calibrating” the Code, how changes will affect walkability, density, street network development, etc. must be carefully considered.

## Are there incentives for developers to choose the SmartCode?

Yes. The Code lists its incentives.

- Applications are processed administratively rather than through public hearings;
- Applications are processed with priority over others with prior filing dates;
- Review fees may be waived or reduced;
- Density can be increased through TDR (transfer of development rights);
- Traffic impact reports are waived;
- A municipality will construct and maintain internal thoroughfares that through-connect to adjacent sites;
- Payment of property taxes shall be maintained at the level prior to approval, until such a time as a Certificate of Occupancy has been issued for each building; and
- First-time buyers of newly created dwellings and businesses within T4, T5 and T6 receive tax relief.

The Code also states that these incentives are intended to be administered to the extent that State law allows.

## Does the SmartCode address land use?

Yes, within each of the six transect zones, there are certain uses allowed by right and certain uses allowed by special exception. The SmartCode addresses these first by basic categories: residential, lodging, office, retail, and other (agriculture, automotive, civil support, education, and industry). Each category is then broken down into individual uses. Rather than simply segregating uses, the SmartCode posits that, to some extent, most uses may be appropriate within each of the six main zones, when their “form” is properly controlled. The code controls the intensity and density of these uses as appropriate to the intended character of each zone.

## What are Transect Zones?

Transect zones are geographic areas within Sectors for which specific thresholds are established for land use diversity, density, and the design of the public realm. Permitted land uses are described as “restricted”, “limited”, or “open”. The Transect Zones are:

- **T1-Natural:** areas intended for natural preservation exclusively
- **T2-Rural:** areas intended for natural preservation, agricultural use, very low density or clustered residential development, and controlled lodging, retail, office, civic, and other uses. Land uses are “restricted”.
- **T3-Sub-Urban:** areas intended for clustered residential development with varying density and controlled lodging, retail, office, civic, and other uses. Land uses are “restricted”.
- **T4-General Urban:** areas intended for medium-high density residential development with lodging, retail, office, civic, and other uses. Land uses are “limited”.
- **T5-Urban Center:** areas intended for high-density residential development with lodging, retail, office, civic, and other uses. Land uses are “open”.
- **T6-Urban Core:** areas intended for maximum density of residential, lodging, retail, office, civic, and other uses. Land uses are “open”.
- **SD-Special District:** areas intended for a unique mix (or lack thereof) of land uses which require special requirements or alleviation of typical SmartCode requirements.

In addition to density and mix of uses, transect zones are further regulated by parking ratios, block size, public and private frontage characteristics, civic space types, site layout (lot occupation and building disposition), and building height.

## Where do “auto-oriented uses” fit in? Do they necessitate variances?

The Code includes several methods for incorporating auto-oriented uses such as gas stations, fast food restaurants, etc. First, they can be designed to meet the T-zone requirements, such as building disposition and rear access parking. Second, the Code includes “SD” zones in which the jurisdiction may prescribe special T-zone requirements according to the needs of the uses in question. In this way, a special district can be created for auto-oriented uses alleviating constant requests for variances. This is also a way to prevent auto-oriented uses in T-zones wherever they are deemed inappropriate. Finally, the Code also allows for the designation of a “Secondary Grid”, or collection of streets and blocks (or parts thereof) in which typical frontage requirements may be exempted or alleviated through Warrants and Exceptions. In the Primary Grid, Warrants and Exceptions that conflict with walkability and favor vehicular access are highly discouraged.

## What is the difference between public and private frontages?

Public frontages are those areas between the property line and the edge of the roadway. Private frontages are the building lines, fences, yards, retaining walls, etc. that form the edge of private property along the public street.

## Why is block size regulated and how?

Block size is regulated according to the length of the perimeter of a block. This is measured and regulated to allow larger block sizes in less dense T-zones and to ensure smaller block sizes in more dense T-zones. This is intended to encourage development of efficient street and sidewalk networks depending on location within the community. In denser areas, more smaller blocks (therefore more streets) are required, dispersing vehicular traffic and creating more convenient, attractive and “psychologically” safer pedestrian routes.

## What are the elements of site layout controlled by the Code?

**Lot Occupation** is the first element and is defined by the size of the lot and the amount of coverage of the lot. While residential density is addressed separately, lot occupation, when combined with parking requirements, building setbacks, and allowable heights determines the density of lodging, retail, office, civic, and other uses within a T-zone.

**Building Setbacks**, as in typical zoning, affect front, rear, and side yards. In T2 and T3, setbacks are established as minimums, in the more intense zones, the setbacks have both minimums and maximums.

**Building Disposition** is the location of the building on the site by reference to the location of yards (edge yards, side yards, rear yards, and courtyards). In lower intensity areas (T1-T4) edge yards, or yards surrounding the building are typical. In more urban areas (T4-T6) side and rear yards and courtyards are the standard, where the building is located along the primary and secondary frontages.

## How is parking regulated?

In typical zoning, parking is regulated solely by use and each land use has a minimum requirement. With the SmartCode, parking is regulated according to the basic land use types (residential, lodging, retail, and office) **and** according to T-zone. For instance, an office in T5 would require slightly less parking per square foot than an office in T3. Compared to T3, in a T5 area an errand-goer is more likely to walk to the location, use transit, or park and walk to multiple locations (requiring only one space for multiple errands). Further, the SmartCode includes a method for calculating shared-use parking. This is measured according to the quantity and mix of uses sharing an off-street parking area.

## How is signage addressed in the SmartCode?

As is typical for the Code, it posits that different allowances are appropriate to different zones and lays out standards for the types and sizes of signs within each T-zone. Small, blade signs (perpendicular to the building facade) are allowed in all zones and band signs (flat wall signs) are allowed only in T5 and T6. Signage may be externally lit only, with an allowance for neon signs located inside a storefront window.

## How does the SmartCode address environmental protection?

In concept, the SmartCode encourages outright preservation or only low density development in areas desired to be protected, as initially defined by allocating T-zones. In contrast, it allows greater flexibility in urban areas to encourage compactness, thereby leaving more open land to be preserved. The SmartCode requires stormwater be treated on-site in T3 but allows it to be treated off-site through underground storm drainage in T4-T6. The Code also regulates vegetation types/species and amount of permeable surfaces according to T-zones.

## Does the SmartCode regulate “aesthetics”?

Not necessarily. The SmartCode does include design standards that are becoming more commonplace within development regulations. These standards however do not address architectural “style”. The model code includes General Architectural Standards that address building wall materials generally, proportions of openings and windows, and the slopes of roofs and parapets to conceal on-roof mechanical equipment. Further, within each T-zone, more specific standards are included. However, the model code provides these regulations in one section that may be altered or completely removed without impacting the efficacy of the overall code.

## What elements of “public works” are addressed by the SmartCode?

The “public works” addressed by the Code lies primarily in the design of streets, alleys, sidewalks, on-street parking, curb and gutter, utilities, etc. The Code establishes different requirements within each zone. In urban areas, such as main streets and surrounding neighborhoods, streets are designed with on-street parking, sidewalks, street trees, and curb and gutter. Utilities would be underground or located within alleys. In more rural areas, streets are designed more simply and modestly – with natural swales instead of curb and gutter and without on-street parking and sidewalks. The SmartCode provides a range of thoroughfare designs based on T-zones, design speeds, and traffic counts. Within each zone, the thoroughfares are allotted various public frontage conditions, on-street parking allowances. Lane widths and curb radii are further broken down according to design speed and average daily traffic (ADT) counts.

## Does the SmartCode create a need for variances? How are variances dealt with?

The dimensional requirements for each T-zone are intentionally flexible to avoid the need for variances. Variances for land uses are discouraged, since land uses are given a larger amount of flexibility inherently in the SmartCode. Further, the SmartCode institutionalizes two methods for authorizing variances whenever those are needed. The **warrant** is a variance that permits a practice not consistent with a specific provision of the Code but which is justified by its intent or by hardship. Warrants are granted administratively. An **exception** is a variance that permits a practice not consistent with a provision or the intent of the Code. Exceptions are granted only by the Board of Adjustments or Board of Appeals.