

ORDINANCE NO. 3134-07

**AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE BOROUGH OF
RUTHERFORD, CHAPTER 105A, ENTITLED
"SPECIAL IMPROVEMENT DISTRICTS",
ORDINANCE NO. 2776-96**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF RUTHERFORD AS FOLLOWS:

SECTION 1. That Chapter 105A, Special Improvement Districts, Article I, Park Avenue Business Improvement District, Section 105A-11, Façade and Streetscape Regulations, is hereby amended and supplemented as follows:

§ 105A-11. Façade and streetscape regulations

A. General

1. The Mayor and Council, having previously adopted the Implementation Plan and Design Manual (the "Plan and Manual") to carry Chapter 105A into effect, have determined that the façade and streetscape regulations for the Borough's Park Avenue Business Improvement District shall be incorporated directly herein.
2. This Chapter shall apply to all structures in the Park Avenue Business Improvement District that are or become used, whether all or in part, for nonresidential use.
3. The purpose of this Chapter is to provide a cohesive approach to exteriors and signage, and to alterations, renovations, and new construction, in the Park Avenue Business Improvement District, with the following goals:
 - (a) Promote harmony and appearance of the downtown streetscape;
 - (b) Avoid disruption and destruction of historic architecture;
 - (c) Encourage restoration of the classic buildings;
 - (d) Harmonize new construction and alterations to the architectural character and style of the existing building;
 - (e) Harmonize the size, scale, color, material and character of the existing or proposed building with its surroundings.
4. In general, building rehabilitation or renovation shall:
 - (a) Restore deteriorated or hidden architectural features;
 - (b) Replace missing architectural features based on an accurate duplication;
 - (c) Preserve original architectural features and the character of the building.
5. No construction permit shall be issued for signage, exterior construction, and/or exterior alteration or renovation, for any building or structure in the District, used in whole or in part for nonresidential purposes, without the review and approval of plans by the District Management Corporation.

6. Nothing contained here shall exempt any property owner, tenant, business improvement district member, or applicant from compliance with any requirement of the Rutherford Building Department, the N.J. State Building Code, and other applicable laws and codes.

B. Application procedures.

1. Any improvement or change to a structure's façade or appearance of the streetscape within the Park Avenue Business Improvement District shall be subject to review and approval as provided in this Chapter. All applications requesting review of such improvements or changes shall be filed with the District Management Corporation in accordance with the requirements stated herein.
2. The applicant shall file six copies of the application with the Corporation no later than the first Tuesday of each month. The Corporation shall notify the applicant of the completeness of the initial application as soon as practical thereafter and of the date, time, and place for the public hearing of the complete application at least seven days before same occurs.
3. The District Management Corporation shall conduct its review of the application to determine compliance with this ordinance.
4. The District Management Corporation may delegate its filing and notice duties hereunder to the District's Business Manager and its review and decision-making duties to the Streetscape Committee. For each application presented to it, the Streetscape Committee shall report its final findings and recommendations to the District Management Corporation.
5. Within twenty days of the completed hearing and review, the District Management Corporation shall grant, modify, or deny the application, in writing. The Corporation's decision shall be communicated to the applicant in writing immediately thereafter.
6. In accordance with *N.J.S.A. 40-56-71*, appeals to the Planning Board of the Borough of Rutherford may be taken by the applicant within twenty days from the date of issuance of the written decision of the District Management Corporation, in accordance with § 51-9.1 of the Code of the Borough of Rutherford.

C. Required submissions

1. Before commencement of any improvements, an applicant who proposes signage or construction, alteration, and/or renovation to any building façade within the Business Improvement District shall submit six complete sets of the following documents to the District Management Corporation:
 - (a) As necessary, professional certified drawings, sketch plats and/or narratives to scale, depicting all elements of signage; building elevation; any element to be demolished, removed or changed; all proposed materials, colors and finishes; and all proposed façade construction, alteration, and/or renovation.
 - (b) Photographs of the existing subject property and adjacent structures;
 - (c) When available, documentation (historic photos or drawings and the like) of any original conditions or buildings that support the historical validity of the proposed construction, renovation or alteration;
 - (d) Such additional documentation as the Streetscape Committee may determine necessary for its review.

D. Design requirements – rehabilitation or renovation and alteration

The following design requirements shall be considered and applied by the District Management Corporation in reviewing applications.

1. Building mass and style

- (a) The project design shall maintain the original mass (size and shape) of the building.
- (b) The project design shall consider the relationship between the building facade and its original window and door spacing and heights, bays and cornices, and remaining original upper stories.
- (c) The project design shall reinforce the rhythm of the streetscape as a whole by respecting the styles of other nearby buildings and shall not visually disrupt the streetscape. No renovation shall visually disrupt that streetscape nor ignore the original style of the rest of the building.

2. Facade treatments and materials

- (a) When facade changes are made, hidden architectural elements and original materials shall be restored or replaced to match the original architecture of the building. Existing elements shall not be covered or hidden and additional covering-over is not permitted.
- (b) In any masonry or frame structure, materials that were not available in the era of the building's original construction shall not be used, except where reproduction materials make historic or classic details replaceable that otherwise might not be replaceable. New high quality plastics and lightweight cement materials may be an acceptable choice.
- (c) Unless original, artificial foam-stone, brick-face systems, cement parging, stucco, shingles or shakes are not permitted. Vinyl or aluminum siding and E.I.F.S. are not permitted.
- (d) Where the original construction was brick, stone or stucco, the original masonry and mortar shall be uncovered, repaired, and restored, or replaced with historically correct new masonry. The original color and texture of masonry surfaces shall be restored.
- (e) Old mortar shall be duplicated in color and texture. Re-pointing with mortar containing a high Portland content shall be avoided because it can create a bond that is often stronger than the masonry itself and will cause deterioration.
- (f) All painting and paint colors shall require approval. Painting of masonry is prohibited. It may be considered when stained or missing masonry cannot be restored to a neat and clean appearance by reasonable means.
- (g) Facades shall be cleaned with the gentlest materials possible, and shall not be sand-blasted. High-pressure water cleaning that can cause leaching of salts from old masonry shall be prohibited because it can stain the masonry with chalky deposits.

3. Storefronts

- (a) The design shall be compatible with the proportions of the rest of the building.
- (b) The entry door shall be recessed, with the display windows set next to the sidewalk.

- (c) The storefront shall be a well-defined area, bounded by the sidewalk on the bottom, the lower edge of the upper facade on top, and a wall on either side.
- (d) The storefront shall form a definable base for the building and be designed to fit within its original opening. It shall not extend beyond the original opening and shall not be reduced from its original height.
- (e) The storefront may have recessed portions but shall not be recessed as a whole.
- (f) Glass should be a minimum of 70% of the base of the facade to accommodate large display windows. A visually transparent storefront is required.

4. Windows and doors

- (a) Original door and window openings (including transoms, lintels, sills) and accenting features shall be maintained and shall be restored to original size and style.
- (b) If a door is replaced, or is not original, the new door must be selected as part of the entire façade and be compatible with the rest of the storefront and conform with the style and period of the building.
- (c) Window and door repairs shall replace damaged parts with like materials.
- (d) New windows should replicate the originals in size, style, spacing and division. They shall replicate the original height including transoms up to the original header height where determinable. True or architectural divided lights are required when divided light windows or doors are installed.
- (e) Storm windows and storm doors are prohibited. Insulated glass is recommended. Exterior screened window and exterior screened doors are prohibited. Glass shall be clear and un-tinted. Low-E coatings shall be clear.
- (f) Removal of over-door air-conditioning units and restoration of transoms is required when new storefronts are being installed.
- (g) Secondary doors leading to upper floors, where traditional, shall be included in and coordinated with the rest of the renovation.
- (h) Where a new storefront of windows is being designed and the original windows have been previously removed or destroyed, new anodized aluminum or brass frames and modern glass are generally acceptable. The style of the design shall be in keeping with the original size and style or a historically compatible facsimile.
- (i) Window frames shall be of darker colors (bronze, dark-green, or copper patina, for example). White, sand or silver colored frames or unpainted aluminum frames are prohibited except on modern buildings where the style and design is original.
- (j) Residential-style replacement windows are prohibited, even for upper story windows. Historically correct windows shall be made to fit the original opening.

5. Detailing and articulation

- (a) Details shall remain and be restored wherever possible. Replacement materials shall match existing where possible. The applicant shall identify signs of a cornice or other details which may have been removed from a building, and more subtle details, such as the trim around windows, which may be important to the design of the overall façade.

- (b) New facade details and articulation shall be compatible with the design of similar nearby structures. Horizontal lines, such as cornices, belt courses (horizontal banding) and opening heights often continue from one building to the next and shall not be disrupted.

6. Awnings

- (a) The installation of awnings is encouraged where architecturally appropriate. Awnings may be operable or fixed. Only classic style awnings that are historically correct for the building in size, shape and color and made of opaque acrylic canvas shall be approved. The vertical flap of any awning shall not exceed eight inches in height.
- (b) Lettering is restricted to the vertical flap of the awning, which shall not exceed six inches in height. Lettering shall be free of clutter.
- (c) One emblem logo may be used per awning. Location of the awning's emblem logo is restricted to the center of the main body of the awning or to the center of the vertical flap. All emblem logos shall be free of clutter. The maximum allowable size of an emblem logo shall be computed as follows: The awning's linear width multiplied by fifteen percent shall be the maximum area (square footage) of the emblem logo, or four square feet, whichever is less.
- (d) The size of awnings (clearances above the sidewalk and projection from the building) are regulated by the Borough of Rutherford's zoning code. The exact location and sizing of the storefront awning shall be coordinated with the building's original windows and cornices and other architectural details as well as existing awnings on adjacent buildings where they have been installed according to these regulations and alignment is appropriate.
- (e) Other materials such as translucent or transparent materials, plastic, aluminum, corrugated plastic and wood shake, etc. are prohibited. Waterfall, mansard, and other non-classic shapes as well as oversized awnings are prohibited. Back-lit, internally lighted, soffited (closed bottom), and sign-type awnings are prohibited.

7. Roof, chimney, and other elements

- (a) The original roof shape shall be maintained.
- (b) If the roof is visible from street level, roofing materials that match the original in form, shape, size, color, and texture shall be used.
- (c) Parapets, bays, towers, turrets, gables and dormers, and the like must be preserved and maintained. The original treatment shall be restored or replicated and hidden architectural or other elements shall be restored.
- (d) Satellite dishes, antennae, or mechanical equipment shall not be visible to pedestrian or vehicular traffic from the street, except where allowable by local ordinance or Federal law.
- (e) Mansard-style roofs and soffits are prohibited. Such items shall be considered as hiding original architectural elements and shall be removed if they are inconsistent with the original design of the building.
- (f) Chimneys shall remain the original material. Metal flue and cinderblock chimneys are prohibited unless same can be reasonably camouflaged.

8. Signage

- (a) The primary store identification signage must remain within the defined boundaries of the storefront. For a two-story building, the signage shall be placed above the storefront windows and below the second floor windows. For a one-story building, the signage shall be placed above the storefront windows and below the top of the pediment. Secondary locations may include the awning flap, inside storefront windows, or a small projecting sign attached to the building. Compliance with the Borough's zoning code requirements for signage shall be required. The maximum allowable primary sign size is one square foot per linear foot of storefront at the building façade (or fifty square feet, whichever is smaller), as set forth in the Borough's zoning code.
- (b) The overall design of the sign shall complement the building facade and be harmonized with the overall design intent of the downtown district and its streetscape.
- (c) Back-lit sign-boxes are prohibited. Existing back-lit signs must be removed when the existing sign is damaged or when a business ceases to operate at that location.
- (d) Signs operated by sodium or metal halide lighting are prohibited.
- (e) Internally illuminated signs may have only separate individual letters of a single color with alphanumeric lettering containing the name of the business only. No logos, pictures, phone numbers or other illuminated items are allowed. Color shall be limited to white, light green or light blue for translucent characters. "Halo" lit signs with opaque lettering may be any single color.
- (f) Unused sign-boxes shall be removed. An old box may only be re-used by an existing business. If new cover panels are inserted, the new panel must be entirely opaque except for alpha-numeric lettering which shall consist of a single line with the name of the business only. No illuminated logos, pictures, phone numbers or other characters will be approved. Color for the translucent characters shall be limited to white, light green or light blue.
- (g) New non-illuminated or externally illuminated signs are to be made of wood, or other solid dimensional, traditional materials with carved, raised or hand-painted lettering and detail. They may be of more than one color and may include logos and other design features so long as free of clutter. Sheet metal, sheet plastic and thin plywood (less than $\frac{3}{4}$ inches thick) and other thin flat materials including stick on vinyl lettering, etc. are prohibited.
- (h) Any sign not specifically allowed in this section is prohibited.

9. Lighting

- (a) Complete electrical wiring while renovating the façade. Visible electrical conduit is prohibited.
- (b) New lighting fixtures shall be in keeping with the period of the architecture of the building (use early period replicas on buildings built prior to the advent of electrical lighting).
- (c) Vestibule lighting of the wall lantern type or recessed hi-hat downright fixtures are allowable. Gooseneck fixtures mounted directly above a wall-mounted sign or a simple shielded fluorescent light-bar mounted above or below the sign are acceptable. Sign lighting shall be unobtrusive and shall light the sign area only.
- (d) Neon lighting is prohibited on the exterior of any building or as a border or framing of any storefront window or door. Light emission levels are regulated by the Borough's Zoning Code.

- (e) Flashing signs are prohibited.

10. Fences

- a. Permitted fence types include board on board, picket, stockade, tubular steel, wrought iron, or brick.
- b. Chain link fence shall be prohibited except temporarily during construction.

11. Building colors

- (a) The colors of buildings in the street wall shall complement one another and be historically correct.
- (b) Colors must be selected to match the section of the "Sherwin Williams - Preservation Palette" that is appropriate for the architectural style and period of the original building. Vibrant colors in the Preservation Palette shall only be used for trim and should be used to accentuate trim and other architectural elements such as windows, doors and cornices. Only satin, or flat finish, or eggshell finish shall be used on body of building.

E. Design requirements - new construction

As nearly as possible and when structurally sound, the following design requirements shall be considered and applied by the District Management Corporation in reviewing applications for new construction.

F. New construction elements

- (a) All new construction shall be designed to be harmonious with the neighboring buildings in terms of material, height, scale, façade proportions, window design and proportions, and decorative features and architectural style. New buildings will be evaluated for their overall proportions, composition, details and quality. A new building's façade is not required to emulate a certain time period so long as it is sympathetic, complementary and coordinating with its neighboring buildings and complies with this ordinance.
- (b) All exterior walls of new construction shall be real brick, brick veneer, stone, or cedar siding.
- (c) Colors must follow classic colorations such as those found in the "Sherwin Williams Preservation Palette".
- (d) Windows are to be similar in proportion, scale and color to those found on nearby classic structures.
- (e) Window frame colors are to follow the applicable section above.
- (f) Reflective glazing is prohibited. Glass must be clear, not tinted.
- (g) Roofs may be flat or pitched. If a pitched roof is provided, it must be of a minimum slope of 9:12. Consideration should be given to adjacent structures.
- (h) Flat-roofed structures are required to have a roof parapet and cornice at all facades that front on a public street.
- (i) Blank walls are prohibited at all facades. Storefronts must follow the applicable sections above.

- (j) Storefront design, including awnings and signage, must conform to the applicable sections above.

G. Enforcement, violations and penalties

1. This ordinance shall be enforced by the Building Department of the Borough of Rutherford.
2. Any person, firm or corporation that violates any provision of this chapter shall, upon conviction thereof, be fined a minimum sum of not less than \$100.00 per violation and a maximum sum of not more than \$2,000.00 per violation, and may be imprisoned for a period of time not exceeding ninety days, as the court in its discretion may impose.
3. Any person, firm, or corporation found to be in violation of any provision of this chapter within one year of the date of a previous violation may be subject to imposition of an additional fine and/or penalty as a repeat offender as provided in *N.J.S.A. 40:49-5*.

SECTION 2. This ordinance shall take effect immediately upon passage and publication according to law.

Approved on this _____ day of _____, 2007.

MAYOR BERNADETTE P. McPHERSON

ATTEST:

MARY P. KRISTON, BOROUGH CLERK