



City of Deer Park, Ohio Zoning Code

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TITLE ONE GENERAL PROVISIONS**Chapter 1101 Purpose and Applicability****§ 1101.01 TITLE.**

This zoning ordinance shall be known and may be cited and referred to as either the "City of Deer Park Zoning Code" or City of Deer Park Zoning Ordinance." The map that accompanies this Zoning Code and is hereby incorporated herein and made a part hereof, shall be referred to as the "City of Deer Park Zoning Map."

§ 1101.02 PURPOSE.

This Zoning Code is enacted for the purpose of promoting public health, safety, convenience, comfort, prosperity, or general welfare, for the limitations and regulation of the height, bulk, and location, including percentage of lot occupancy; set back building lines, and area and dimensions of yards, courts, and other open spaces; and the uses of buildings and other structures and of the premises in such zones or districts; and for the purposes of promoting the Comprehensive Plan for the city. This Zoning Code is in accordance with powers granted by the R.C. § 713.06.

§ 1101.03 INTERPRETATION AND RELATIONSHIP TO OTHER REGULATIONS.

The interpretation and application of the provisions of this Zoning Code shall be held to be the minimum requirements, adopted for the promotion of the public health, safety, and general welfare. When the requirements of this Zoning Code conflict with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive or those imposing the higher standards shall govern.

§ 1101.04 CONSTRUCTION OF LANGUAGE.

- (A) General rules for construction of language. The following general rules of construction shall apply to the text of the Zoning Code:
- (1) The particular shall control the general.
 - (2) In case of any difference of meaning or implication between the text of any provision and any caption or illustration, the text shall control.
 - (3) The word *PERSON* includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

- (4) References in the masculine and feminine genders are interchangeable.
- (5) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (6) The word **SHALL** is a mandatory requirement, the word **MAY** is a permissive requirement, and the word **SHOULD** is a preferred requirement.
- (7) The words **USED** or **OCCUPIED** include the words **INTENDED, DESIGNED, OR ARRANGED TO BE USED OR OCCUPIED.**
- (8) The word **LOT** includes the words **PLOT** or **PARCEL.**
- (9) The words **ACTIVITIES** and **FACILITIES** include any part thereof.
- (10) Unless the context clearly indicates to the contrary, the following conjunctions shall be interpreted as follows:
 - (a) **AND** indicates that all connected items or provisions shall apply.
 - (b) **OR** indicates that the connected items or provisions shall apply singly but not in combination.
 - (c) **EITHER..... OR** indicates that the connected items or provisions shall apply singly but not in combination.
- (11) The word **DISTRICT** means a general district established by this title, unless otherwise indicated by specific reference to another kind of district.
- (12) All public officials, bodies, and agencies to which reference is made are those of the city unless otherwise indicated.
- (13) The word **CITY** means the City of Deer Park, Ohio.

§ 1101.05 SEPARABILITY.

Should any section of this Zoning Code be declared by a court to be unconstitutional or invalid, such a decision shall not affect the validity of this Zoning Code as a whole or any other parts thereof, other than the part declared unconstitutional or invalid.

§ 1101.06 REPEAL OF CONFLICTING ORDINANCES.

All ordinances in conflict with this Zoning Code or inconsistent with the provisions of this Zoning Code are hereby repealed to the extent necessary to give this Zoning Code full force and effect.

§ 1101.07 EFFECTIVE DATE.

This Zoning Code shall become effective from and after the date of its approval and adoption, as provided in R.C. § 713.06.

§ 1101.08 AREA OF JURISDICTION.

The provisions of this Zoning Code apply to all incorporated areas of the city of Deer Park, Ohio.

§ 1101.09 GENERAL APPLICABILITY OF THE ZONING CODE.

No structure, or part thereof, shall be placed upon or moved onto land, erected, constructed, reconstructed, enlarged, or structurally altered, nor shall any building or land be used or occupied which does not comply with the district regulations established by this Zoning Code for the district in which the building, structure, and/or land is located.

- (A) *Lot size requirements and the subdivision of land.* No parcel of land held under single ownership, with or without a building, at the time this Zoning Code became effective, shall be reduced, nor shall any such parcel be subdivided in any manner below the minimum lot width and lot area required by this Zoning Code.
- (B) *Reductions in yard requirements.* No building may be enlarged which would result in decreasing a minimum yard requirement below the requirements of the applicable zoning district.
- (C) *Location of uses on a single lot.* Unless otherwise specifically allowed, every principal building hereafter erected, relocated, or structurally altered shall be located on a single lot as herein defined.
- (D) *Unsafe buildings.* Nothing in this Zoning Code shall prevent the strengthening or restoring to a safe condition, any structure or part thereof declared unsafe by a proper authority as long as such strengthening or restoration is no more than necessary to preserve the integrity of the building.
- (E) *Conversion of dwellings.* The conversion of any building into a dwelling or the conversion of any dwellings to accommodate an increased number of dwelling units or families is permitted only in accordance with all requirements of this Zoning Code,

including those that require minimum lot sizes, as set forth in the underlying zoning district.

- (F) *Parking and loading requirements.* No land use may change from one use to another without meeting the parking and loading requirements for the new use.

Chapter 1103 Administration

§ 1103.01 PURPOSE.

This Chapter sets forth the powers and duties of the Planning and Zoning Commission, City Council, and Zoning Inspector with respect to the administration of the provisions of this Zoning Code.

§ 1103.02 GENERAL PROVISIONS.

The formulation, administration, and enforcement of this Zoning Code is hereby vested in the following offices and bodies within the city:

- (A) Zoning Inspector.
- (B) Planning and Zoning Commission.
- (C) City of Deer Park Council.

§ 1103.03 ZONING INSPECTOR.

A Zoning Inspector designated by the Mayor shall administer and enforce this Zoning Code. The Zoning Inspector is under the supervision of the City Safety-Service Director. He or she may be provided with the assistance of such other persons as the Mayor or City Safety-Service Director may direct. The City Safety-Service Director may also be designated by the Mayor as the Zoning Inspector. For the purpose of this Zoning Code, the Zoning Inspector shall have the following duties:

- (A) Enforce the provisions of this Zoning Code and interpret the meaning and applications of its provisions.
- (B) Respond to questions concerning applications for amendments to the Zoning Code text and the Zoning Map.
- (C) Issue zoning permits and certificates of occupancy as provided by this Zoning Code and keep a record of same with a notation of any special conditions involved.
- (D) Act on all applications upon which he or she is authorized to act by the provisions of this Zoning Code within ten days or notify the applicant in writing of his or her refusal or disapproval of such application and the reasons therefore. Failure to notify the applicant in the case of such refusal or disapproval within the specified time shall entitle the applicant to submit his or her request to the Planning and Zoning Commission.

- (E) Conduct inspections of buildings and uses of land to determine compliance with this Zoning Code, and in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action.
- (F) Maintain in current status, the Zoning Map, which shall be kept on permanent public display in the city offices.
- (G) Maintain permanent and current records required by this Zoning Code, including but not limited to zoning permits, zoning certificates, inspection documents, and records of all variances, text and map amendments, and conditional uses.
- (H) Make such records are available for the use of the City Council, Planning and Zoning Commission, Board of Zoning Appeals and the public.
- (I) Review and process site plans pursuant to this Zoning Code.
- (J) Determine the existence of any violations of this Zoning Code and cause such notifications, revocation notices; or initiate such other administrative or legal action as needed to address such violations.

§ 1103.04 PLANNING AND ZONING COMMISSION.

The Planning and Zoning Commission is designated by the Mayor as described in division (A) of this section. The main function of the Planning and Zoning Commission is to make recommendations to the City Council concerning amendments to the Zoning Code, approval of site plans, conditional use applications, serve as the platting commission, providing recommendations to the Board of Zoning Appeals concerning variance applications and any other duty set forth in this Zoning Code. More specific responsibilities of the Planning and Zoning Commissioners are detailed in division (C) of this section.

- (A) *Appointment and term length.* The Commission shall be composed of five (5) members and shall include the Mayor, Director of Public Safety-Services, and three (3) citizens of the City of Deer Park to be appointed by the Mayor. *(1103.04 (A) revision adopted 12-8-2014)*
 - (1) The term of all members shall be six years and their terms so arranged that the term of one member shall expire each year.
 - (2) Any vacancy shall be filled for the remainder of the unexpired term in the manner the original appointment was made.
 - (3) All members shall serve without compensation.

(B) *Proceedings of Commission.*

- (1) The Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Ordinance.
- (2) The Commission shall elect a Chairperson and Vice-Chairperson, shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Zoning Code, and appoint a secretary who may or may not be a member of the Commission.
- (3) Commission meetings shall be held at the call of the chairperson and at such other times as the Commission may determine. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- (4) The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The Secretary shall record Commission action and keep minutes of its proceedings showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions. All minutes shall be public record and immediately filed in the office of the Commission.
- (5) The presence of three members shall constitute a quorum. The concurring vote of four members of said Commission shall be necessary to reverse an order of determination of the Zoning Inspector, to decide in favor of an applicant in any matter over which the Commission has original jurisdiction under this Zoning Code, or to grant any variance from the requirements stipulated in this Zoning Code.

(C) *Duties of Commission.* For the purpose of this Zoning Code, the Commission shall have the following duties:

- (1) Recommend the proposed Zoning Code, including text and Zoning Map to the City Council for formal adoption.
- (2) Initiate advisable Zoning Map changes or changes in the text of the Zoning Code where same will promote the best interest of the public in general through recommendations to the City Council.
- (3) Review all proposed amendments to the text of this Zoning Code and the Zoning Map and make recommendations to the City Council.

- (4) Review all planned unit development applications and make recommendations to the City Council as provided in this Zoning Code.
- (5) Review and decide upon all conditional use applications as identified in the respective zoning districts according to Chapter 1149.
- (6) Carry on a continuous review of the effectiveness and appropriateness of this Zoning Code and recommend such changes or amendments as it feels would be appropriate.
- (7) Review and decide upon site plan applications in accordance with Chapter 1139.
- (8) Any other duty or responsibility as expressly provided for in this Zoning Code.

(Text deletion (prev. item 8) per Ord. 2019-15, passed 6/24/2019; to delete requirement for P & Z review of variance requests prior to BZA review.)

§ 1103.05 CITY COUNCIL.

The powers and duties of the City Council pertaining to the Zoning Code are as follows:

- (A) Approve Planned Unit Development applications. Final action upon a proposed Planned Unit Development application shall be undertaken at a public hearing.
- (B) Initiate or act upon proposed amendments to the Zoning Code text or Zoning Map. Final action upon a suggested zoning amendment shall be undertaken at a public hearing.
- (C) Override a written recommendation of the Planning and Zoning Commission on a text or map amendment provided that such legislative action is passed by a vote of not less than three-quarters of the City Council.
- (D) Review and approve all final record plats as provided for in the Subdivision Regulations.

§ 1103.06 REMOVAL FOR MISCONDUCT AND VACANCY APPOINTMENTS.

Each member of the Planning and Zoning Commission shall serve until his or her successor is appointed and qualified. Members shall be removable for non-performance of duty, misconduct in office, or other reasonable cause by the Mayor upon written charges and after a public hearing has been held regarding such charges; a copy of the charges having been served upon the member so

charged at least ten days prior to the hearing either personally or by registered mail, or by leaving the same at his or her place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by appointment by the Mayor and shall be for the unexpired term.

§ 1103.07 SCHEDULE OF FEES.

The City Council shall by resolution establish a schedule of fees for zoning permits, amendments, administrative appeals, variances, conditional use permits, site plan approvals, and other procedures permits and services pertaining to the administration and enforcement of this Zoning Code, after considering the recommendations of the Zoning Inspector with respect to actual administrative costs, both direct and indirect. The schedule of fees shall be posted in the office of the Zoning Inspector and may be altered or amended only by the City Council. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.

§ 1103.08 PUBLIC HEARINGS AND MEETINGS PROCEDURE.

The following public hearings and meetings procedure shall apply to all required public hearings provided for in this Zoning Code. Public hearings and meetings of the Planning and Zoning Commission and Board of Zoning Appeals shall be public. Notice of hearings of each appeals case shall be given by publication one time in a newspaper of general circulation not less than six days in advance of the hearing. The Commission and Board shall act by resolution, in which three members shall concur. Concise records and minutes shall be kept as to all official acts of the Board. The Commission and Board may recess such public hearings from time to time without making a final determination on the matter, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. Any interested person may appear at the public hearing in person or by attorney. Notice of such public hearings shall be given by first class mail to the parties making the request for the appeal and to the property owners contiguous and directly across from the property to which such appeal relates. Such notification shall be sent to the names and addresses of such owners appearing on the Hamilton County Auditor's current tax list. If the address appearing on the tax list is that of a lending institution or other person or entity clearly recognizable as not being the owner, then written notice shall be mailed to such institution, person, or entity at the listed address and to the named owners at the street address of the property. Failure of delivery of such notice shall not invalidate action taken on such application. (Ord.2021-10 passed 5-10-2021.)



Chapter 1105 Board of Zoning Appeals, Variances and Appeals

§ 1105.01 BOARD CREATED; MEMBERS AND TERMS

A Board of Zoning Appeals is hereby created. The Board shall consist of five members, appointed by the Mayor. The terms of the members shall be five year terms. Members of the Planning and Zoning Commission and City Council shall not be appointed to serve on the Board of Zoning Appeals in any capacity.

- (A) One member shall be appointed for one year; one for two years; one for three years; one for four years; and one for five years; and their successors for five years each.
- (B) A member appointed to fill a vacancy shall serve for the unexpired term.

§ 1105.02 ORGANIZATION

The Board shall organize annually and elect a Chairman, a Vice Chairman and a Secretary.

§ 1105.03 POWERS OF THE BOARD OF ZONING APPEALS

- (A) *Powers of jurisdiction.* The Board of Zoning Appeals shall have the power to exercise the jurisdiction over the following matters as provided for in this Zoning Code.
 - (1) *Variances.* To hear and decide upon requests for area variances from an eligible provision of this Zoning Code.
 - (2) *Administrative Appeals.* To hear and decide appeals where it is alleged that there is an error in any interpretation, judgment, determination, or decision made by the Zoning Inspector or the Planning and Zoning Commission in the administration and/or enforcement of the provisions of this Zoning Code.
- (B) In exercising its jurisdiction it shall adopt from time to time such general rules and regulations relating to its procedure as it may deem necessary.

§ 1105.04 APPEALS TO THE BOARD OF ZONING APPEALS.

Appeals to the Board of Zoning Appeals may be submitted by any person, firm or corporation, deeming himself or itself to be adversely affected by a decision of the Zoning Inspector or the Planning and Zoning Commission.



§ 1105.05 INITIATION OF APPEAL.

Applications for appeal shall be filed with the Zoning Inspector and with the Board of Zoning Appeals within twenty days after the date of any adverse order, requirement, decision, or determination. The application for appeal shall include reference to the decision and the provision of this Zoning Code from which the appeal is sought. The application for appeal shall also contain a detailed written description of the alleged error and may include supporting documentation including, but not limited to, photographs, maps, site plans, drawings, correspondence and any other materials deemed to be relevant to the alleged error. The Zoning Inspector shall transmit to the Board of Zoning Appeals all papers constituting the record upon which the action being appealed was taken. Failure to submit the administrative appeal within the twenty day period shall forfeit the applicant's right from seeking an administrative appeal under this section.

§ 1105.06 PUBLIC HEARING BY THE BOARD.

When an application for appeal has been filed in the proper form with the Board of Zoning Appeals and the application fee has been paid, the Zoning Inspector shall place the request upon the calendar for public hearing before the Board of Zoning Appeals pursuant to the procedural requirements set forth in § 1103.08.

§ 1105.07 STAY OF PROCEEDINGS.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector shall certify to the Board of Zoning Appeals after the notice of the appeal has been filed, that by reason of facts stated in the permit, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed by other than a restraining order granted by a court having appropriate jurisdiction.

§ 1105.08 REVIEW OF APPEAL.

The Board of Zoning Appeals shall review the appeal. To aid in their review, the Board may transmit the application to appropriate administrative departments and professional consultants for review and comment. Any reports, comments or experts opinions shall be compiled by the Zoning Inspector and transmitted to the Board prior to the time of the Board's review.

§ 1105.09 DECISION OF THE BOARD.

Within the limits of the powers set forth in this Zoning Code, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination being appealed, and to that end shall have all the powers of the officer from whom the appeal is taken, and it may direct the issuance of a zoning permit.



- (A) Any decision by the Board of Zoning Appeals requires the concurrence of a majority of the members present for the vote. The Board shall render a decision on the appeal within 30 days from the date of the hearing unless an extended period of time is mutually agreed upon by the applicant and the Board.
- (B) The Board of Zoning Appeals shall notify the appellant in writing of the decision of the Board, which shall include the reasons for the action taken.

§ 1105.10 AREA VARIANCES.

The Board of Zoning Appeals may authorize upon appeal in specific cases of an area variance from the terms of this Zoning Code as will not be contrary to the public interest according to the following procedures:

- (A) *Definition.* Area variances shall be considered those variances from a zoning regulation that establishes minimum or maximum areas, heights, distances, separation volume or any other measurement, which is expressed in terms of a geometric measurement.
- (B) *Application Requirements.* An application for an area variance shall be filed with the Zoning Inspector for review by the Board of Zoning Appeals upon the forms provided, and shall be accompanied by the following requirements necessary to convey the reason(s) for the requested variance:
 - (1) Name, address and phone number of applicant(s);
 - (2) Proof of ownership, legal interest or written authority;
 - (3) Description of property or portion thereof;
 - (4) Description or nature of variance requested;
 - (5) Narrative statements establishing and substantiating the justification for the variance pursuant to division (C) below;
 - (6) Site plans, floor plans, elevations and other drawings at a reasonable scale to convey the need for the variance;
 - (7) Payment of the application fee;
 - (8) A list of property owners contiguous to and directly across from the property on which the variance is proposed, including owners name and mailing addresses and permanent parcel numbers; (*Ord 2021-10 passed 5-10-2021.*)



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- (9) Any other documents deemed necessary by the Zoning Inspector.
- C) *Review for Completeness.* Upon receipt of a written request for an area variance, the Zoning Inspector shall make a preliminary determination whether such application provides the information necessary for review and evaluation. If it is determined that such application does not provide the information necessary for such review and evaluation, the Zoning Inspector shall within ten days so advise in writing the applicant of the deficiencies and shall not further process the application until the deficiencies are corrected. If the applicant fails to correct such deficiencies within twenty days of the date of the written notice from the Zoning Inspector or such reasonable extension granted from the twenty days deadline, then such appeal shall be dismissed as not being timely filed.
- (D) *Review by the Board.* According to the procedures established for appeals in this chapter, the Board of Zoning Appeals shall hold a public hearing and give notice of the same. The Board shall review each application for an area variance to determine if it complies with the purpose and intent of this Zoning Code and evidence demonstrates that the literal enforcement of this Zoning Code will result in practical difficulty. The following factors shall be considered and weighed by the Board to determine practical difficulty:
- (1) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures or conditions;
 - (2) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
 - (3) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;
 - (4) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
 - (5) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;
 - (6) Whether the property owner purchased the property with knowledge of the zoning restrictions;



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- (7) Whether special conditions or circumstances exist as a result of actions of the owner;
 - (8) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
 - (9) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and
 - (10) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
- (E) *Requests for Additional Information.* The Board of Zoning Appeals may request that the applicant supply additional information that the Board deems necessary to review and evaluate the request for a variance.
- (F) *Additional Conditions and Safeguards.* The Board may further prescribe any conditions and safeguards that it deems necessary to ensure that the objectives of the regulation(s) or provision(s) to which the variance applies will be met.
- (G) *Action by the Board.* The Board shall either approve, approve with conditions as specified in Division (F) above, or disapprove the request for an area variance. In no case shall the Board of Zoning Appeals approve a variance that establishes a nonconforming use of land, building or structure where one had not previously existed.
- (H) *Term and Extension of Variance.* Area variances shall be non-assignable without the written approval of the Board of Zoning Appeals and shall expire one year from the date of the variance issuance, unless prior thereto, the applicant substantially initiated work within one year in accordance with the granted variance or an extension of time has been granted by the Board of Zoning Appeals. "Substantially initiated" shall mean expending monies towards completing the project equal to at least 25% of the value of the total work to be performed. A variance shall also expire if the applicant fails to substantially complete the work within two years from the date of the variance issuance. "Substantially completed" shall mean expending monies towards completing the project equal to at least 90% of the value of the total work to be performed. Once the time limit pursuant to this section has expired, a request for a variance shall be considered to be a new application for a variance and shall meet all requirements for application and review pursuant to this section. Area variances approved in conjunction with a site plan application, shall remain valid for a one-year period.



§ 1105.11 USE VARIANCES.

The granting of use variances shall be prohibited. An applicant seeking to use a structure or parcel of land in a manner that is not consistent with the permitted uses or conditional uses for the zoning district in question, may seek a change in land use through an amendment of the zoning map or zoning text following the procedures set forth in Chapter 1109.

Chapter 1107 Enforcement

§ 1107.01 GENERAL.

This Chapter stipulates the procedures to be followed in obtaining permits, certificates, and other legal or administrative approvals under this Zoning Code.

§ 1107.02 ZONING PERMITS REQUIRED.

No building or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure, or land be established or changed in use without a zoning permit issued by the Zoning Inspector. Permits shall be issued only in conformity with the provisions of this Zoning Code.

§ 1107.03 CONTENTS OF APPLICATIONS FOR A ZONING PERMIT.

The application for a zoning permit shall be made in writing and be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun within one year or substantially completed within two and one-half years. At a minimum, the application shall contain the following information and be accompanied by all required fees:

- (A) Name, address, and phone number of applicant.
- (B) Legal description of property.
- (C) Existing use.
- (D) Proposed use.
- (E) Zoning district.
- (F) Plans in triplicate drawn to scale showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building(s) or alteration.
- (G) Building heights.
- (H) Number of off-street parking spaces or loading berths and their layout.
- (I) Location and design of access drives.
- (J) Number of dwelling units.

- (K) If applicable, application for a sign permit or a conditional or temporary use permit, unless previously submitted.
- (L) Such other documentation as may be necessary to determine conformance with and to provide for the enforcement of this Zoning Code.

§ 1107.04 APPROVAL OF A ZONING PERMIT.

Within 30 days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the zoning permit application in conformance with the provisions of this Zoning Code. All zoning permits shall, however, be conditional upon the commencement of work within one year. One copy of the plans shall be returned to the applicant by the Zoning Inspector after the Zoning Inspector has marked such copy either as approved or disapproved and attested to same by his or her signature on such copy. One copy of plans similarly marked shall be a placard to be posted in a conspicuous place on the property in question attesting to the fact that the activity is in conformance with the provisions of this Zoning Code.

§ 1107.05 EXPIRATION OF A ZONING PERMIT.

If the work described in any zoning permit has not begun within one calendar year from the date of issuance thereof, said zoning permit shall expire. It shall be revoked by the Zoning Inspector and written notice shall be given to the persons or business entity affected. If the work described in any zoning permit has not yet been substantially initiated within one year of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Inspector. "Substantially initiated" shall mean expending monies towards completing the project equal to at least 25% of the value of the total work to be performed. A written notice shall be given to the persons or business entity affected, together with notice that further work, as described in the canceled permit, shall not proceed unless and until a new zoning permit has been obtained or an extension granted. The Zoning Inspector may only issue one extension for an additional calendar year based on good cause shown by the applicant.

§ 1107.06 CERTIFICATE OF OCCUPANCY REQUIRED.

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises or both or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, until a certificate of occupancy required as part of the building permit procedure has been issued by the Zoning Inspector stating that the proposed use for the building or land conforms to the requirements of this Zoning Code. The issuance of a certificate of occupancy in no way relieves the recipient from compliance with all requirements of this Zoning Code and other regulations.

§ 1107.07 TEMPORARY CERTIFICATE OF OCCUPANCY.

A temporary certificate of occupancy may be issued by the Zoning Inspector for a period not to exceed six (6) months during alterations or partial occupancy of a building pending its completion.

§ 1107.08 RECORD OF ZONING PERMITS AND CERTIFICATES OF OCCUPANCY.

The Zoning Inspector shall maintain a record of all zoning permits and certificates of occupancy and copies shall be furnished upon request and upon payment of the established fee to any person.

§ 1107.09 FAILURE TO OBTAIN A ZONING PERMIT OR CERTIFICATE OF OCCUPANCY.

Failure to obtain a zoning permit and certificate of occupancy shall be a punishable violation of this Zoning Code.

§ 1107.10 CONSTRUCTION AND USE AS PROVIDED IN APPLICATIONS, PLANS, AND PERMITS.

Zoning permits and certificates of occupancy issued on the basis of plans and applications approved by the Zoning Inspector authorize only the use and arrangement set forth in such approved plans and applications or amendments thereof and no other use, arrangement, or construction shall be allowed. Use, arrangement, or construction contrary to that authorized shall be deemed a punishable violation of this Zoning Code.

§ 1107.11 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this Zoning Code occurs or is alleged to have occurred, a person may file a complaint with the Zoning Inspector. The Zoning Inspector shall properly record such complaint, immediately investigate it, and take action thereon as provided by this Zoning Code.

§ 1107.12 ENTRY AND INSPECTION OF PROPERTY.

The Zoning Inspector is authorized to make inspections of properties and structures in order to examine and survey the same, at any reasonable hour, for the purpose of enforcing the provisions of this Zoning Code. Prior to seeking entry to any property or structure for such examination or survey, the Zoning Inspector shall attempt to obtain the permission of the owner or occupant to inspect. If such permission is denied or cannot be obtained, the Zoning Inspector shall request the assistance of the Law Director in securing a valid search warrant prior to entry.

§ 1107.13 ZONING PERMIT REVOCATION.

The Zoning Inspector may issue a revocation notice to revoke a zoning permit or administrative approval which was issued contrary to this Zoning Code or based upon false information or misrepresentation in the application.

§ 1107.14 NOTICE OF VIOLATION.

Whenever the Zoning Inspector or his or her agent determines that there is a violation of any provision of this Zoning Code, a certified letter to the property owner shall be issued and shall serve as a notice of violation. Failure to remedy the alleged violation within the specified time frame shall result in the levying of penalties and fines pursuant to § 1107.15. Such certified letter shall:

- (A) Include a statement of the reasons why it is being issued and refer to the sections of this Zoning Code being violated.
- (B) State the time by which the violation shall be corrected.
- (C) If a certified mail envelope is returned with endorsement showing that the envelope is unclaimed, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Zoning Inspector. Service shall be deemed complete when the fact of mailing is entered in record, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery.
- (D) A detailed description of the administrative appeals procedure and documentation requirements as set forth in this Zoning Code shall be included in the certified letter.

§ 1107.15 PENALTIES AND FINES.

Whoever violates any provision of this Zoning Code, and fails to conform to any provision thereof or fails to obey any lawful order of the Zoning Inspector, issued in pursuance thereof, and for which no other penalty is provided is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense such person is guilty of a misdemeanor of the third degree. Each day's violation of failure to conform shall constitute a separate offense. The court of competent jurisdiction shall process violations under this Zoning Code.

§ 1107.16 ADDITIONAL REMEDIES.

Nothing in this Zoning Code shall be deemed to abolish, impair, or prevent other additional remedies as provided by law. In the event of a violation of any provision or requirement of this Zoning Code, or in the case of an imminent threat of such a violation, the Zoning Inspector, City Law Director,

or the owner of any neighboring property who would be especially damaged by such violation may, in addition to other recourse provided by law, institute mandamus, injunction, abatement, or other appropriate actions to prevent, remove, abate, enjoin, or terminate such violation.

Chapter 1109 Zoning Code Amendments

§ 1109.01 GENERAL.

Whenever the public necessity, convenience, general welfare, or good zoning practices require, the City Council may by ordinance, after receipt of recommendation thereon from the Planning and Zoning Commission and subject to the procedures provided by law, amend, supplement, change, or repeal the regulation, restriction, and boundaries or classification of property described by this Zoning Code.

§ 1109.02 INITIATION OF ZONING AMENDMENTS.

Amendments to this Zoning Code may involve an amendment of the text of this Zoning Code or the Zoning Map and may be initiated in one of the following ways:

- (A) By adoption of a motion by the Planning and Zoning Commission.
- (B) By adoption of an ordinance by the City Council.
- (C) By the filing of an application by at least one property owner or authorized representative within the area proposed to be changed or affected by said amendment.

§ 1109.03 CONTENTS OF APPLICATION FOR ZONING MAP AMENDMENT.

Applications for amendments to the Zoning Map adopted as part of this Zoning Code shall contain at least the following information:

- (A) The name, address, and phone number of applicant.
- (B) The proposed amending ordinance approved as to form by the City Law Director.
- (C) A statement of the reason(s) for the proposed amendment.
- (D) Present use of the subject property.
- (E) Present zoning district.
- (F) Proposed use of the subject property.
- (G) Proposed zoning district.

- (H) A vicinity map at a scale approved by the Zoning Inspector, showing property lines, thoroughfares, existing and proposed zoning, and such other items as the Zoning Inspector may require.
- (I) A boundary survey of the parcels proposed to be rezoned as prepared by a professional surveyor registered in the State of Ohio.
- (J) A list of all property owners and their mailing addresses who are contiguous to or directly across the street from the parcel(s) proposed to be rezoned, and the others that may have a substantial interest in the case, except that addresses need not be included where more than ten parcels are to be rezoned.
- (K) A statement on the ways in which the proposed amendment relates to the Deer Park Comprehensive Plan.
- (L) A fee as established by City Council and adopted by resolution.

§ 1109.04 CONTENTS OF APPLICATION FOR ZONING TEXT AMENDMENT.

Applications for amendments proposing to change, supplement, amend, or repeal any portion(s) of this Zoning Code, other than the Zoning Map, shall contain at least the following information:

- (A) The name, address, and phone number of the applicant.
- (B) The proposed amending ordinance approved as to form by the City Law Director
- (C) A statement of the reason(s) for the proposed amendments.
- (D) A statement explaining the ways in which the proposed amendment relates to the comprehensive plan.
- (E) A fee as established by City Council and adopted by resolution.

§ 1109.05 TRANSMITTAL TO PLANNING AND ZONING COMMISSION.

Immediately after the adoption of an ordinance by the City Council or the filing of an application by at least one owner or lessee of property, said ordinance or application shall be transmitted to the Planning and Zoning Commission.

§ 1109.06 RECOMMENDATION BY PLANNING AND ZONING COMMISSION.

Within 60 days from the receipt of the proposed amendment, the Planning and Zoning Commission shall transmit its recommendation to the City Council. The Commission may recommend that the

amendment be granted as requested or modification of the amendment as requested or recommend that the amendment be denied. The written decision of the Commission shall indicate the specific reason(s) upon which the recommendation is based, including the basis for their determination that the proposed amendment is or is not consistent with the comprehensive plan. In addition, any petition for amendment shall not receive a favorable recommendation unless one or more of the following conditions exists:

- (A) There has been a substantial change in area conditions.
- (B) There is a legitimate requirement for additional land area for the particular zoning district.
- (C) There is indicated a manifest error in the original zoning designations.
- (D) There is accordance with or more appropriate conformance to the Deer Park Comprehensive Plan.

§ 1109.07 PUBLIC HEARING BY CITY COUNCIL.

Upon receipt of the recommendation from the Planning and Zoning Commission, the City Council shall schedule a public hearing before the Legislative and Finance Committee. Said hearing shall be not more than 40 days from the receipt of the recommendation from the Planning and Zoning Commission. The Legislative and Finance Committee shall provide a recommendation on the proposed rezoning application or zoning text amendment to the City Council.

§ 1109.08 NOTICE OF PUBLIC HEARING IN NEWSPAPER.

Notice of the public hearing shall be given by City Council in at least one publication of one or more newspapers of general circulation in the City. Said notice shall be published at least 30 days before the date of the required hearing. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.

§ 1109.09 NOTIFICATION BY CITY COUNCIL.

If the proposed amendment intends to rezone or redistrict ten or less parcels of land as listed on the tax duplicate, written notice of the hearing shall be mailed by the City Clerk by first-class mail at least 20 days before the day of the public hearing to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list, and to such other lists or lists that may be specified by the City Council. The failure to deliver the notification as provided in this section shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in § 1109.08.



§ 1109.10 EFFECTIVE DATE AND REFERENDUM.

Such amendment adopted by City Council after three readings of the ordinance shall become effective 30 days after the date of such adoption, unless within 30 days after the passage of the ordinance there is presented to the City Clerk a petition, signed by a number of qualified voters residing in the city, equal to but not less than 10% of the total vote cast in such areas at the last preceding general election at which a Governor was elected, requesting the City Council to submit the Zoning Amendment to the electors of the city for approval or rejection at the next general election.

§ 1109.11 ANNEXATION.

All land annexed to the City subsequent to the adoption of this Zoning Code shall remain subject to the previous township zoning district regulations until such time as the Zoning Map is amended according to the provisions of this Chapter and the Ohio Revised Code. All land annexed to the city which, prior to annexation, is not subject to township zoning shall remain unzoned until the Zoning Map is amended according to the provisions of this Chapter and the Ohio Revised Code.

TITLE THREE SUBDIVISION REGULATIONS**Chapter 1111 General Provisions and Definitions****§ 1111.01 PURPOSE.**

These Subdivision Regulations are adopted to secure and provide for the following objectives:

- (A) To establish standards for logical, sound and economical development of the City.
- (B) To prevent premature subdivisions which have inadequate water supply, drainage, sewerage facilities or other public services and which may impose later expenditure of public funds to correct.
- (C) To provide adequate and convenient spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air arid to prevent congestion of the population.
- (D) To require and secure all improvements, such as pavements, sidewalks, sanitary sewers, storm sewers and water lines, in accordance with the specifications of the City.
- (E) To coordinate the arrangement of streets or highways in a manner which will promote the following: safe and convenient vehicular and pedestrian movement and insure the proper design of new streets in relationship to existing or proposed highways and the Deer Park Transportation Master Plan.
- (F) To provide for the equitable handling of all subdivision plats by providing uniform procedures and standards for observance by both the approving authority and the subdivider.
- (G) To promote the public health, safety, comfort, convenience, prosperity and general welfare of the present and future population of the City of Deer Park.

§ 1111.02 INTERPRETATION; CONFLICTS OF LAWS; COMPLIANCE WITH FEDERAL AND STATE STANDARDS.

The provisions of these Subdivision Regulations shall be construed to be the minimum requirements and are not intended to interfere with any other existing provisions of law or any other existing City regulations. Whenever these Regulations impose a greater restriction, these Regulations shall control. Although the City does not have enforcement authority, the developer is responsible for ensuring that the project complies with all Federal and State requirements, including, but not limited to, the requirements of the Environmental Protection Agency, the Army Corps of Engineers, the



National Pollutant Discharge Elimination System, the Clean Water Act, Wetlands Regulations and the Americans With Disabilities Act.

§ 1111.03 JURISDICTION.

These Subdivision Regulations, governing plats of subdivisions of land and lot splits contained therein, shall apply within the City.

§ 1111.04 SEPARABILITY.

If any Chapter, section, subsection, paragraph or phrase of these Subdivision Regulations is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these Regulations.

§ 1111.05 AMENDMENTS.

The Planning and Zoning Commission may, on its own motion and after a public hearing is held on the matter, recommend to City Council amendments, supplements or changes to these Subdivision Regulations. Notice shall be given by the Planning and Zoning Commission of the time and place of such public hearing by publication in at least one newspaper of general circulation, published in the City of Deer Park or in Hamilton County, thirty days prior to the holding of the hearing. The amendment or amendments shall be on file in the office of the City of Deer Park Safety-Service Director for public examination during such thirty days.

§ 1111.06 DEFINITIONS.

- (A) Interpretation. In the interpretation of these Subdivision Regulations, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:
- (1) Words used or defined in one tense or form shall include other tenses and derivative forms.
 - (2) Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
 - (3) The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
 - (4) The word "shall" is mandatory; the word "may" is permissive.
 - (5) The word "person" includes individuals, firms, corporations, associations, trusts and any other similar entities.



General Provisions and Definitions

- (6) The words "City" and "Municipality" mean the City of Deer Park, Ohio.
- (7) The words "Planning Commission" and "Commission" mean the Deer Park City Planning and Zoning Commission.
- (8) The words "occupied" and "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied".
- (9) Time limits of ten days or less mean business days. Time limits greater than ten days or listed in months mean calendar days.

Chapter 1113 Subdivision Regulations Administration

§ 1113.01 AUTHORITY OF THE PLANNING AND ZONING COMMISSION.

It shall be the responsibility of the Planning and Zoning Commission to administer these Subdivision Regulations, except where specific authority is given to some other City office, as set forth in these Regulations.

§ 1113.02 RECORDING OF PLATS.

No plat of any subdivision shall be recorded in the office of the Hamilton County Recorder or have any validity until it has been approved in the manner prescribed in these Subdivision Regulations. In the event any such unapproved plat is recorded, it shall be considered invalid and the Planning and Zoning Commission shall institute proceedings to have the plat struck from the County records.

§ 1113.03 SALE OF LAND IN SUBDIVISIONS.

No owner, or agent of an owner, of any land located within a subdivision shall transfer ownership in the future by reference to, by exhibition of or by use of a plan or plat of a subdivision before such plan or plat has been approved and recorded in the manner prescribed in these Subdivision Regulations. Any contract to sell or transfer contrary to the provisions of this section is void, except through an option which cannot be exercised until the final plat has been approved by the Planning and Zoning Commission. Any money changing hands for the option agreement shall be held by an escrow agent that has been pre-approved by the Planning and Zoning Commission. The description of such subplot or parcel, by metes and bounds, in the instrument of transfer or other documents used in the process of selling or transferring, shall not exempt the transaction from the provisions of these Regulations.

§ 1113.04 REVISION OF PLATS AFTER APPROVAL.

No changes, erasures, modifications or revisions shall be made in any plat of a subdivision after approval has been given by the Planning and Zoning Commission and an endorsement is made, in writing, on the plat, unless the plat is first resubmitted and the changes approved by the Planning and Zoning Commission.

§ 1113.05 LOT CONSOLIDATIONS.

- (A) "Lot consolidation", for purposes of this section, means the joining together of two or more contiguous parcels of land having unity of ownership, the effect of which is to create one lot from those parcels so joined together.
- (B) Any proposed lot consolidation shall be submitted to the Planning and Zoning Commission on forms provided by the Commission. If the Planning and Zoning



Commission, acting through the Zoning Inspector, is satisfied that such lot consolidation is not contrary to the applicable regulations, it shall, within twenty days after submission, approve such lot consolidation by stamping the form "Approved by the Deer Park City Planning and Zoning Commission, No Plat Required" and having it signed by the Zoning Inspector. In so doing, the Planning and Zoning Commission may require the submission of a sketch plat, a record of survey and such other information as it deems pertinent to its determination under this section.

§ 1113.06 FEE SCHEDULE.

The fees applicable in the administration and enforcement of these Subdivision Regulations shall be set forth in a fee schedule adopted by the City Council:

§ 1113.07 APPEALS.

Whenever a party presenting any subdivision to the Planning and Zoning Commission has been rendered a final decision from the Commission which is adverse to the request of such party so as to leave the aggrieved party without further remedy, then appeal may be made as outlined in Ohio R.C. Chapter 711.

§ 1113.08 PENALTY.

Whoever violates any provision of these Subdivision Regulations, and fails to conform to any provision thereof or fails to obey any lawful order of the Zoning Inspector, issued in pursuance thereof, and for which no other penalty is provided is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense such person is guilty of a misdemeanor of the third degree. Each day's violation of failure to conform shall constitute a separate offense. The court of competent jurisdiction shall process violations under these Subdivision Regulations.

Chapter 1115 Procedure for Subdivision Approval

§ 1115.01 PURPOSE.

The purpose of this Chapter is to specify the procedures that shall be followed to subdivide land.

§ 1115.02 CLASSIFICATION AND DETERMINATION OF SUBDIVISION TYPES.

There are two basic types of subdivisions:

- (A) Lot Split/Minor Subdivision (Approval Without Plat). For the purpose of subdivision plat review, the Zoning Inspector may determine that a proposed subdivision of land is a minor subdivision if the proposed division of a parcel of land is along an existing public street, does not involve the opening, widening or extension of any street or road and does not involve more than five lots after the original tract has been completely subdivided. In the event, the Zoning Inspector determines no major subdivision plat approval through the Planning and Zoning Commission is required, the proposed division shall not be contrary to applicable zoning regulations or these Subdivision Regulations.
- (B) Major Subdivision. Any subdivision that does not meet the requirements of a lot split/minor subdivision shall be considered a Major Subdivision.

§ 1115.03 LOT SPLIT / MINOR SUBDIVISION PROCEDURE.

- (A) Review and Approval. The Planning and Zoning Commission is hereby designated as having authority of review and approval. The Commission may, at its discretion, designate an authorized representative to approve or disapprove lot split/minor subdivisions.
- (B) Submissions. Any person proposing to create a lot split/minor subdivision shall submit to the Planning and Zoning Commission via the Zoning Inspector:
 - (1) A completed application for a lot split/minor subdivision on the form for the same as provided by the Planning and Zoning Commission.
 - (2) A copy of the County Tax Maps showing the parcel to be split or subdivided and indicating the approximate dimensions of the proposed new parcels.
 - (3) Payment of the appropriate fee as established by the fee schedule as adopted by City Council. The Planning and Zoning Commission may request additional detailed information such as:

- (a) A legal description of each parcel to be created by the lot split/minor subdivision.
 - (b) A copy of a surveyor's drawing (accurate to scale) showing the total parcel and how it is to be split or subdivided.
 - (c) Construction drawings for all on-site and off-site infrastructure improvements.
 - (d) Other information the Planning and Zoning Commission deems appropriate.
- (4) Written approval signed by the Zoning Inspector and the Hamilton County Board of Health.
- (C) Standards for Approval. For a lot split/minor subdivision to be approved, it must meet the following standards:
- (1) There shall not be more than five parcels created from an original tract.
 - (2) All proposed lots must meet the zoning requirements of this zoning code.
 - (3) All lots must have a minimum front footage, as established by the Deer Park City Zoning Code.
 - (4) No building site on a proposed parcel shall be within a designated floodway area, as recognized on the official FEMA Flood Boundary and Floodway Maps.
 - (5) The proposal shall not involve the opening, widening or extension of a public or private street or easement of access.
 - (6) Public water and sewer facilities are available to the site for immediate connection.
- (D) Action by the Commission. Based upon the standards set forth in subsection (c) hereof and the fulfillment of the proper submission requirements, the Planning and Zoning Commission shall take one of the following actions within twenty working days of the proper submission:
- (1) Approve the lot split/minor subdivision and stamp the instrument of conveyance "Approved By The Deer Park City Planning and Zoning Commission, No Plat Required" and affix the Zoning Inspector's signature and date. The approval shall expire after one year, unless the conveyance is recorded in the office of the Hamilton County Recorder.

- (2) Not approve the proposed lot split/minor subdivision and notify the applicant, in writing, stating the reason for the disapproval.

§ 1115.04 MAJOR SUBDIVISION APPROVAL PROCEDURE

Major subdivisions shall be approved in three stages: sketch plat stage, preliminary plat stage and final plat stage as follows:

- (A) The sketch plat stage requires the subdivider to present a sketch-type plat to the Zoning Inspector for the purpose of determining street classifications, acceptable street names, an acceptable subdivision name and possible problems with zoning, storm water drainage, sanitary sewer and water service and other community facilities, such as the elements of the City's Comprehensive Plan, school system and transportation routes. This stage ensures that the subdivider will not expend extensive monies developing detailed plans and plats that may not be acceptable to the Planning and Zoning Commission.
- (B) The preliminary plat stage requires the subdivider to present all information needed to enable the Planning and Zoning Commission to determine that the proposed layout is satisfactory and will serve the public interest. This stage also ensures that the subdivider will not be required to expend extensive construction level design monies without some assurance that his or her plat will be finally approved.
- (C) The final plat stage requires the subdivides to present all construction level data needed to enable the Planning and Zoning Commission to determine that the subdivision fully complies with these Subdivision Regulations and conforms to the approved preliminary plat. After approval of the final plat by the Planning and Zoning Commission, the Commission will forward to City Council its recommendation for acceptance of proposed street dedications and the improvement surety amount.

§ 1115.05 SUBMITTAL OF SKETCH PLAT.

- (A) The subdivider shall submit to the Zoning Inspector twelve (12) copies of his or her sketch plat which, as a minimum, shall contain the following:
 - (1) The proposed subdivision in relation to existing community facilities, thoroughfares and other transportation modes, shopping centers, manufacturing establishments, residential developments and existing natural and man-made features, such as general soil types and vegetation, as needed for runoff calculations (vegetation in terms of meadow, thicket, etc.) and utilities in the neighboring areas.
 - (2) The layout of streets, lots and any nonresidential sites or recreational uses within the proposed subdivision. If the subdivision is to be developed in phases, the

layout of streets, lots and any nonresidential sites for the entire tract shall be included in the sketch plat.

- (3) The location of existing utilities in the proposed subdivision, if available, or the locations of the nearest sources for water and disposal of sewage and storm water.
 - (4) The name of the proposed subdivision, a north arrow, proposed dimensions, proposed street names and the date.
 - (5) Existing permanent buildings.
- (B) The Zoning Inspector shall, within thirty (30) days of receipt of the sketch plat, compile all related information, review the proposal and visit the site, and if, in his or her judgment, the sketch is in conformance with these Subdivision Regulations, the Zoning Inspector will inform the subdivider to prepare and submit a preliminary plat in accordance with these Regulations. If the sketch plat does not conform to these Regulations, the subdivider shall incorporate all necessary changes to bring the plat into compliance with these Regulations. Further, the Zoning Inspector shall advise the subdivider of:
- (1) Appropriate street classifications.
 - (2) Approved or rejected street and subdivision names.
 - (3) Any other areas that need to be addressed as a result of his or her review and site visit.
- (C) Upon receipt, in writing, from the Zoning Inspector of approval of the sketch plat, the subdivider shall have twelve (12) months to submit a preliminary plat. If the preliminary plat is not submitted in said time, the approval of the sketch plat becomes null and void.

§ 1115.06 SUBMITTAL OF PRELIMINARY PLAT.

- (A) The subdivider shall submit the following data to the Zoning Inspector:
 - (1) An application for approval of the preliminary plat.
 - (2) Twelve (12) copies of the proposed preliminary plat.
- (B) The subdivider, at the time of submitting the application for approval of the preliminary plat shall pay the appropriate fee as established by City Council.

- (C) The preliminary plat shall be prepared by a registered civil engineer. The plat shall be clearly and legibly drawn to an engineering scale of 100 feet or less to the inch and shall be on sheets no larger than twenty-four inches by thirty-six inches. The preliminary plat shall contain the following information:
- (1) Vicinity maps. The map shall show the relationship of the proposed subdivision to existing community facilities which serve or influence it. The vicinity map may be on the same sheet as the preliminary plat drawing. The vicinity map shall show:
 - (a) Existing streets, highways, thoroughfares, etc., in the area of the proposed development.
 - (b) Zoning and zone lines.
 - (c) Any proposed street, highway, thoroughfare, etc., as shown on the City Transportation Master Plan.
 - (d) A north arrow.
 - (e) The location of the proposed development, with an outlines of the owner's total property and the proposed subdivision.
 - (2) Identification.
 - (a) The proposed name of the subdivision, the township, the tract or the original lot or section number.
 - (b) Names, addresses and telephone numbers of the owner, subdivider and registered Ohio surveyor and registered Ohio civil engineer.
 - (c) A bar scale and north arrow and the date.
 - (3) Existing data.
 - (a) A boundary survey, legal description and drawing to scale.
 - (b) Easements, their location, width and purpose.
 - (c) Streets on and adjacent to the subdivision, their names, location and right-of-way and pavement width; and planned public improvements, such as highways or other major improvements planned by public authorities for future construction.

- (d) The location of proposed underground utilities on or near the subdivision.
- (e) Utilities on and adjacent to the subdivision; the location and size of sanitary and storm sewers; the location and size of water mains; and the location of gas lines, fire hydrants and utility poles. If water mains, sewers and/or culverts are not on or adjacent to the tract, then the direction and distance to and the size of the nearest ones shall be indicated.
- (f) Existing contours taken from a topographic survey of the site at intervals of not more than five feet where the ground slope is generally greater than ten percent, and not more than two feet, where the ground slope is generally less than ten percent.
- (g) When public water and sewer systems will not be part of the development, then subsurface information, such as the depth of the water table, bedrock and any unique conditions, such as abandoned mines, shall be provided.
- (h) Other conditions in the subdivision:
 - (i) Watercourses and areas subject to flooding.
 - (ii) Wooded areas.
 - (iii) Any structures or other significant features.
 - (iv) The approximate direction and gradient of the ground slope.
 - (v) The location and type of buildings, fences, tree lines, etc.
 - (vi) Railroad lines.
 - (vii) Power lines and towers.
 - (viii) Owners of adjacent unplatted land. (For adjacent platted land, refer to the subdivision plat by name, plat book and pages.)
- (4) Proposals.
 - (a) Proposed streets (indicating each street by name, right-of-way widths, approximate grades, centerline data and proposed improvements.)

- (b) Other rights-of-way or easements, their location, width and purpose.
 - (c) Numbers, dimensions and areas, in square feet, of irregular lots.
 - (d) Minimum building setback lines.
 - (e) Lane parcels within the subdivision not to be divided into lots.
 - (f) Public sites reserved or dedicated for parks, playgrounds or other public uses.
 - (g) When extensive changes of topography are contemplated, the proposed topography.
 - (h) The location of all underground utilities and the immediate and future construction thereof.
 - (i) The distance to the nearest existing intersection, for reference.
 - (j) Proposed areas of non-access to dedicated streets.
- (5) Traffic Impact Study. A traffic impact study shall be prepared by the subdivider pursuant to the guidelines and requirements set forth in Chapter 1139.
- (6) The Planning and Zoning Commission may require such additional information as is deemed necessary.

§ 1115.07 PROCESSING OF PRELIMINARY PLAT.

- (A) Distribution. The preliminary plat shall be distributed by the Zoning Inspector to the following officials and agencies for their review and recommendation:
- (1) Safety-Service Director
 - (2) City Engineer
 - (3) Public Works Superintendent
 - (4) Hamilton County Health Department, as required
 - (5) Metropolitan Sewer District
 - (6) Cincinnati Water Works

- (7) City Fire Chief
- (8) City Police Chief
- (B) Official Filing. Upon the proper submission of the preliminary plat, the subdivision shall be placed on the agenda of the next regular Planning and Zoning Commission meeting, at which time the Commission shall take one of the following actions:
 - (1) Accept the plat for official filing purposes.
 - (2) Not accept the plat for official filing purposes. In this case, the applicant shall be notified, in writing, of the reasons) for refusal.
- (C) Planning and Zoning Commission Action. Upon the official filing of a preliminary plat, the subdivision shall be placed on the agenda of the next regular Planning and Zoning Commission meeting which shall take place within forty days or at a mutually agreed upon time. At that meeting, the Planning and Zoning Commission shall take one of the following actions:
 - (1) Approve the preliminary plat.
 - (2) Revise the plat in conjunction with the subdivider and reschedule for the following meeting for action.
 - (3) Deny the plat. In the case of disapproval, the developer must resubmit any alternative plats from the beginning steps of this process. The Commission shall notify the subdivider, in writing, within three days of the Commission meeting, of the action taken and the standards of these Subdivision Regulations which were not fulfilled or violated, resulting in the disapproval. This notification shall be by registered mail.
- (D) Effects of Approval. Upon arrival, the Commission shall communicate its action to Council. The approval has the following effects:
 - (1) It authorizes the subdivider to prepare a final plat and construction drawings in accordance with the approved preliminary plat.
 - (2) It approves the conceptual design and street network.
 - (3) It does not authorize the construction of streets nor grading for street purposes.
 - (4) It does not authorize the transfer of lots nor the recording of the plat in the office of the Recorder of Hamilton County.

- (E) The approval by the Commission shall be in effect for a twenty-four (24) month period from the date of the meeting such approval was granted. Upon expiration of a preliminary plat approval, no approval of a final plat shall be given until a new preliminary plat has been resubmitted, officially filed and approved.

§ 1115.08 STANDARDS FOR REVIEW OF PRELIMINARY PLAT.

The Planning and Zoning Commission shall review and either approve or disapprove the preliminary plat based upon the following standards:

- (A) Compliance with the City of Deer Park Transportation Master Plan.
- (B) Compliance with the Zoning Code.
- (C) Compliance with the design standards of these Subdivision Regulations.
- (D) Compliance with the procedural requirements of these Regulations.

§ 1115.09 SUBMITTAL OF FINAL PLAT.

- (A) Required Data. Upon the receipt of the preliminary plat approval, the subdivider may proceed to submit the following detailed construction drawings and associated information to the Zoning Inspector and the Planning and Zoning Commission shall then formally receive the submittal for official filing at said meetings.
 - (1) Twelve (12) copies of the proposed final plat and detailed construction plans.
 - (2) An application for approval of the final plat that notes any changes between the preliminary and final plat.
 - (3) A final plat fee per the fee adopted by City Council
 - (4) Such other data as the Planning and Zoning Commission may deem necessary for the proper review of the proposal.
 - (5) Proposed protective covenants and deed restrictions.
 - (6) The detailed construction drawings (detailed engineering plans) shall be prepared by a registered professional civil engineer authorized to practice in the State of Ohio. These drawings or plans for the construction of all public facilities in the proposed subdivision shall be in conformance with the design standards set forth in Chapters 1117 and 1119. Upon their approval, a

reproducible set of construction drawings shall be filed with the Zoning Inspector before the final plat will be released for recording.

- (B) Preparation of Plat. The final plat shall be prepared by a registered professional surveyor authorized to practice in the State of Ohio and shall conform to the approved preliminary plat and include any changes recommended by the Planning and Zoning Commission, except that it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at this time. This phased portion must conform to all the requirements of these Subdivision Regulations.
- (1) The final plat shall be eighteen inches by twenty-four inches in outside dimensions and shall have a one and one-half inch binding margin on the left side of the eighteen-inch length and one-inch margins on all other sides. It shall be accurately drawn to an engineering scale of 100 feet or less to the inch and the scale shall be graphically indicated on the plat. If portions of the plat become cluttered with information, a separate, larger scale detail of such portions shall be shown.
 - (2) The plat shall be superimposed on a survey of the lands of the dedicators from which such plat is drawn and shall contain an accurate background drawing of any metes-and-bounds description of the lands of the dedicators from which such plat is drawn. It shall also contain:
 - (a) The plat boundary lines, with lengths of courses to hundredths of a foot and bearings to seconds. These boundaries shall be determined by an accurate survey in the field, which shall be balanced and closed with an error of closure not to exceed $1 = 10,000$.
 - (b) The name of the subdivision and the location of the subdivision by original land survey range, township and quarter section, county and State.
 - (c) Layouts including:
 - (i) Street lines, their names, bearings, angles of intersection and widths (including widths along the line of any obliquely intersecting street);
 - (ii) All easements and rights-of-way, when provided for or owned by public services (with the limitation of the easement rights definitely stated on the plat);
 - (iii) All lot lines, with dimensions in feet and hundredths of a foot and with bearings and angles to minutes, if at other than right angles.

- (iv) Curve data for all centerline, right-of-way line and property line curves, including internal angle, radius, arc length, tangent distance, chord length and bearing, points of curvature and points of tangent bearings.
- (d) The location and type of all survey monuments set or found.
- (e) The true bearings and distances to the nearest established street bounds, patent or other established survey lines or other official monuments, which monuments shall be located or accurately described on the plat. Any patent or other established survey or corporation lines shall be accurately monument-marked and located on the plat, and their names shall be lettered on them.
- (f) The proposed lots, which shall be numbered sequentially with numbers assigned to the subdivision by the Zoning Inspector.
- (g) The accurate outline of all property which is offered for dedication for public use and of all property that may be reserved by covenant in the deeds for the common use of the property owners in the subdivision, with the purpose indicated thereon. All lands dedicated to public use, other than streets or roads, shall be marked "dedicated to the public".
- (h) The exact location and the width along the property line of all existing recorded streets intersecting or paralleling the boundaries of the subdivision.
- (i) Where the proposed subdivision is traversed by a watercourse, channel, stream or creek, the prior or present location of such watercourse, channel, stream or creek.
- (j) Building setback lines with dimensions.
- (k) The name and location of adjoining subdivisions and the location and ownership of adjoining un-subdivided property. Where provisions are made for access to an adjoining lake or stream, a sketch illustrating such access shall be submitted.
- (l) The volume and page number of the deed, where the property was conveyed to the owner, and the name and address of the owner of record, the developer and the engineer and/or surveyor;
- (m) A vicinity map.



- (n) Certification of a registered surveyor, using the following standard form:

CERTIFICATE OF SURVEYOR

I hereby certify that this plat is a true and complete land survey made (under my supervision), (by me), on date _____, and that all survey monuments shown have been set.

REGISTERED SURVEYOR #

- (o) An acknowledgement by the owner or owners adopting the plat, offering streets for dedication and establishing utility easements and other public areas, using the following standard form:

1. We, the undersigned, being all the owners of the lands herein platted, do hereby voluntarily consent to the execution of this plat and do offer for dedication the streets, parks and public grounds as shown thereon, to the public use forever.
2. All easements shown hereon are for the construction, operation, maintenance, repair, replacement or removal of water, sewer, gas, electric, telephone or other utility lines or services and for the express privilege of removing any and all trees, shrubs, bushes, buildings or other obstructions to the free use of said utilities and for providing ingress and egress to the property for said purposes and are to be maintained as such forever.

WITNESS

WITNESS

WITNESS

WITNESS

- (p) A certificate from a Notary Public in accordance with the following standard form:

CERTIFICATE OF NOTARY PUBLIC



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STATE OF OHIO, COUNTY OF _____, SS

Be it remembered that on this _____ day of _____, 20__, before me the undersigned, a Notary Public in and for said County and State, personally came _____ and _____ and acknowledged the signing and execution of the foregoing plat to be their voluntary act and deed.

IN TESTIMONY, WHEREOF, I have set my hand and notary seal on the day and date above written.

My Commission expires

NOTARY PUBLIC in and for
_____ COUNTY, OHIO

- (q) A signature block for the Planning and Zoning Commission, in accordance with the following standard form:

APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF DEER PARK, OHIO, this _____ day of _____, 20__

CHAIRMAN

SECRETARY

- (r) A signature block for City Council, in accordance with the following standard form:

APPROVED AND ACCEPTED THIS _____ DAY OF _____, 20__, BY ORDINANCE NO. , THE STREETS DEDICATED HEREON ARE HEREBY ACCEPTED AS SUCH BY THE COUNCIL OF THE CITY OF DEER PARK, OHIO.

IN WITNESS, THEREOF, I HEREUNTO SET MY HAND AND AFFIXED MY SEAL THIS _____ DAY OF _____, 20__

CLERK OF COUNCIL, CITY OF DEER PARK.

- (s) A signature block for the City Engineer, in accordance with the following standard form:



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APPROVED BY _____, City Engineer, on this _____ day of _____, 20__.

- (t) Signature and recording blocks for the Hamilton County Auditor and the Hamilton County Recorder, in accordance with. the following standard forms:

TRANSFERRED THIS _____ DAY OF _____, 20__.

AUDITOR, HAMILTON COUNTY, OHIO

FILED FOR RECORDING _____ THIS DAY OF _____, 20__.

AT _____ FEE _____ FILE NO. _____

RESTRICTIONS FEE _____

RECORDED THIS _____ DAY OF _____, 20__.

PLAT BOOK _____ PACE(S) _____

RESTRICTIONS RECORDED IN OFFICIAL RECORD VOLUME _____

PAGE(S) _____

RECORDER, HAMILTON COUNTY, OHIO

§ 1115.10 PROCESSING OF THE FINAL PLAT.

- (A) Distribution. The final plat and plans shall be distributed by the City Planning and Zoning Commission to the following officials and agencies for their review and recommendation:
 - (1) Safety- Service Director.
 - (2) City Engineer.
 - (3) Public Works Superintendent.
 - (4) Hamilton County Health Department, as required.
 - (5) Fire Chief
 - (6) Clerk of Council.
- (B) Planning and Zoning Commission Action. In not more than forty days after the official filing of the final plat with the City Planning and Zoning Commission, the Commission shall take one of the following actions:

- (1) Approve the final plat.
 - (2) Disapprove the plat. In the case of disapproval, the grounds of disapproval shall be stated in the records of the Commission, including the reference to the regulations violated by the proposal. Further, the Commission shall notify the subdivider, in writing, within three working days of the Planning and Zoning Commission meeting, of the action taken and the standards of these Subdivision Regulations which were violated. This notification shall be by registered mail.
- (C) Effect of Approval. Upon approval or approval with conditions, the Planning and Zoning Commission shall communicate its action to City Council. The approval or approval with conditions has the following effects:
- (1) It authorizes the subdivider to prepare bonding for Planning and Zoning Commission consideration.
 - (2) It authorizes the developer to begin the grading of streets if the construction plans are approved.
 - (3) It authorizes the recording of the final plat in the office of the Recorder of Hamilton County, Ohio, upon the filing of the approved drawings with the City Engineer and the acceptance of bonds and public dedications by City Council.
 - (4) It authorizes the developer to submit plans and applications to the Ohio EPA for approval of the proposed water and sanitary systems and to obtain a permit to install (PTI) from said Ohio EPA.
 - (5) If the final plat is not filed for recording with the County Recorder's office within twenty-four (24) months of the date of approval by the City Planning and Zoning Commission, it shall be null and void.

§ 1115.11 STANDARDS FOR REVIEW OF A FINAL PLAT.

The Planning and Zoning Commission shall either approve or disapprove the plat based upon the following:

- (A) Compliance with the City's Transportation Master Plan.
- (B) Compliance with the Zoning Code.
- (C) Compliance with the design requirements of these Subdivision Regulations and the construction standards of the City.
- (D) Compliance with the procedural requirements of these Regulations.

§ 1115.12 ACCEPTANCE OF DEDICATIONS; SECURITIES; NOTICES OF COMMENCEMENT AND COMPLETION.

- (A) Acceptance of Dedications. City Council shall review and, by legislation, judge the acceptance of street and other dedications for public purposes and, pursuant to these Subdivision Regulations, shall officially set the amounts of securities for performance guarantee and maintenance of public improvements.
- (B) Securities. All securities required under this section shall be acceptable in form to the City Zoning Inspector, shall be secured from companies authorized to do business in the State of Ohio, shall be deposited and shall remain, at all times, with the City Treasurer (OR CITY AUDITOR??) and shall not be released without the written consent of the City Engineer.
- (C) Notices of Commencement and Completion. A Notice of Commencement must be filed with the Zoning Inspector prior to any construction activity. A Notice of Completion must be properly filed and recorded prior to the release of the development surety.

§ 1115.13 RECORDING OF FINAL RECORD PLATS.

Upon approval of the final plat by the Planning and Zoning Commission, the acceptance of securities, the acceptance of public lands by City Council, the obtaining of signatures on all certifications and the fulfillment of any requirements determined to be necessary by the Planning and Zoning Commission for the proper subdivision of land, the developer shall record the final record plat with the Recorder of Hamilton County. The final record plat shall be returned to the Zoning Inspector for permanent storage after recordation. In the event the County Recorder keeps the original, then the developer shall provide the Zoning Inspector with a reproducible copy of the recorded plat.

§ 1115.14 PERFORMANCE AND MAINTENANCE GUARANTEES.

- (A) Performance Guarantees.
 - (1) Type of guarantee. The subdivider, in lieu of the actual installation or completion of required improvements, when requesting permission to record a final plat, shall execute and file a surety acceptable to the City Zoning Inspector.
 - (2) Term of guarantee. Guarantees shall be for a period of not longer than twenty-four (24) months, unless City Council extends the time period by resolution. City Council may extend the bond period for a six (6) month period if it determines that weather conditions or other unusual factors have caused a delay that makes strict enforcement unreasonable.

- (3) Amount of grantee. The financial guarantee shall be in an amount equal to the City Engineer's estimate of the cost of completion of all improvements, plus ten (10) percent, as set forth by City Council in legislation.
- (B) Maintenance Guarantees.
- (1) A maintenance surety acceptable to the City Zoning Inspector shall be posted with the City in the amount of ten (10) percent of the cost of improvements and shall be arranged for a period of twelve (12) months from the date of acceptance of improvements by the City Engineer. This surety is to be posted at such time as the improvements are accepted as complete by the City Engineer.
 - (2) The subdivider shall be responsible for the maintenance of all improvements against faulty workmanship, including all sedimentation and erosion controls, and shall repair all failures as soon as they become apparent.
 - (3) The streets and other improvements shall be in a condition acceptable to the City at the end of the maintenance period. If the subdivider fails to perform such maintenance to the complete satisfaction of the City, the City may use such surety guarantee to make the necessary repairs at its discretion.

§ 1115.15 FEES FOR ENGINEERING SERVICES.

- (A) It shall be the duty of the City Council to establish schedules of fees for plans, specifications, printing, construction inspection, design engineering and other engineering services performed by the City, which shall be as close as is practical to the actual payroll, independent contractor fees and overhead costs thereof. Such schedules may be changed or amended from time to time as City Council may find necessary to make the schedules conform to such costs.
- (B) The Zoning Inspector, or his or her representative, is hereby authorized and directed to collect such fees and deposit them with the City Auditor.
- (C) For inspections of private projects outside the City Government, the Zoning Inspector, or his or her designee, is hereby given the prerogative to authorize the commencement of a project by a private contractor, with charges determined and charged after the completion of such project or at an earlier period of time. When a developer or contractor has no record of service with the City or other unusual circumstances exist, the Zoning Inspector may estimate the inspection charges and require payment of 110 percent of that total be paid to the City prior to the commencement of any work.
- (D) As the actual inspection charges are being paid and accrued, the Zoning Inspector shall, from time to time, re-estimate the inspection charges for the project so that a deposit of money in the amount of ten (10) percent over the actual estimated costs. However, at



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the discretion of the Zoning Inspector, such charges may be made, instead, during and/or at the completion of the project.

- (E) Upon termination of the project, any unused balance of deposits paid by a private contractor shall be returned to the depositor by the City.

Chapter 1117 Subdivision Design Standards

§ 1117.01 PHYSICAL CONSIDERATIONS.

- (A) Natural Land Use. Subdivisions should be planned to take advantage of the topography of the land, to economize in the construction of drainage facilities, to reduce the amount of grading and to minimize destruction of trees and topsoil.
- (B) Flooding Areas. In order to protect the health, safety and general welfare of the people, the Planning and Zoning Commission may reject a proposed subdivision located in an area subject to periodic flooding. Whenever a subdivision is proposed to be located in an area having poor drainage or other adverse physical characteristics and impairment, the Commission may approve the plat provided that the developer binds himself or herself legally to make such improvements as, in the judgment of the Planning and Zoning Commission, will render the subdivision substantially safe and otherwise acceptable for the intended use. In such case, the developer shall post with the Commission a surety, acceptable to the Commission, sufficient to cover the cost of such improvements as estimated by the officials having jurisdiction.
- (C) Conformity to the Transportation Master Plan. The subdivision layout shall conform to the City's Transportation Master Plan. Whenever a tract to be subdivided embraces any part of a highway, thoroughfare, parkway or other major arterial, minor arterial or collector street so designated on such Plan, such part of such public way shall be platted by the developer.

§ 1117.02 STREETS.

- (A) Conformity to City Standards. The arrangement, character, extent, width and location of all streets shall conform to the City's Transportation Master Plan and the requirements set forth herein, unless specific requirements are waived by the Planning and Zoning Commission. The design of proposed streets and public access to adjacent un-platted lands shall be arranged so that the entire area can be served with a coordinated public street system. All streets must be built to City standards.
- (B) General Roadway Classifications.
 - (1) Major arterial thoroughfares shall be planned for the continuation of movement of fast traffic, generally over forty-five miles per hour, between points of heavy traffic generation and from one section of the community to another. They shall contain as few intersections with minor streets as possible.
 - (2) Minor arterial thoroughfares are similar in nature to major arterials, but are for lower volumes and speeds, generally thirty-five to forty-five miles per hour.

- (3) Collector streets shall provide a traffic route from local streets to arterial thoroughfares. Collector streets normally contain a relatively large number of intersections with local streets and few intersections with arterial thoroughfares.
- (4) Local streets shall provide direct and full access to each lot and shall be laid out so that their use by through traffic will be discouraged. The street system shall be designed so that all proposed streets shall be in conformity with modern practices of land subdivision and in general conformity with a plan for the most advantageous development of the entire neighborhood. The streets shall be extended to the boundaries of the tract to be recorded and aligned with existing streets, unless prevented by topography or other physical conditions or unless, in the opinion of the Planning and Zoning Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision with the development of adjacent tracts. Dead-end streets or cul-de-sacs will be approved only when necessitated by topography or other physical conditions or where, in the opinion of the Planning and Zoning Commission, they are appropriate for the type of development contemplated.

(C) Street Right-of-Way and Pavement Widths. Street right-of-way and pavement widths shall be as follows:

<u>Classification</u>	<u>Right-of-Way Width (ft.)</u>	<u>Pavement Width (ft.)</u>
Major	80	64
Minor	80	54
Collector	60	40
Local	50	28
over 500 ft. in length	50	32
Up to 500 ft. in length	50	28

Pavement width is measured from back-of-curb to back-of-curb.

(D) Cul-de-Sac and Dead-End Streets.

- (1) A street designed to be a permanent cul-de-sac should not be longer than 800 feet and shall be provided at the closed end with a turnaround having an outside pavement diameter of at least eighty feet and a street right-of-way line diameter of at least 100 feet.

- (2) If the subdivision creates a temporary dead-end street that is intended to be extended in the future, an eighty-foot diameter turn-around shall be constructed of six inches of 304 compacted base material. Such turn-around shall be within an easement granted to the City by the developer and shall be maintained to the satisfaction of the City Engineer. Such easement shall be automatically vacated to the abutted property owners when the dead-end street is legally extended and an additional right-of-way dedicated to the City. If such dead-end street is not legally extended within five years of approval of the final plat that created it, the developer must construct a turn-around as required for a permanent cul-de-sac (including curb and gutter) and dedicate the required 100-foot right-of-way to public use. If such dead-end street extends only the depth of the corner lot past a street intersection, no turn-around will be required.
- (E) Grades. It is recognized that the maximum grade must vary with the severity of the natural terrain. Thus, the following maximum grades are set:
- (1) Level terrain: four percent maximum grade
 - (2) Rolling terrain: eight percent maximum grade
 - (3) Hilly terrain: fifteen percent maximum grade with an absolute minimum grade of 0.5 percent is required.
- (G) Changes in Grades. All changes in street grades in excess of one percent shall be connected by vertical curves. The minimum length of a vertical curve shall be twenty times the algebraic difference in the rate of grade for major, minor or industrial streets and fifteen times the algebraic difference in the rate of grade for collector or local streets. Grade changes (with or without a vertical curve) shall be no closer than 300 feet.
- (H) Minimum Centerline Radii. The minimum centerline radius for horizontal curves shall be 400 feet for major, minor or industrial streets and 100 feet for collector or local streets.
- (I) Reverse Horizontal Curves. Major, minor, and industrial streets shall have a minimum 100-foot tangent section between reverse horizontal curves. No minimum tangent section is required for collector or local streets.
- (J) Intersections.
- (1) Intersections shall be no closer than 125 feet on local or collector streets and no closer than 250 feet on major, minor or industrial streets. The highest level (most restrictive) street involved governs.

- (2) Curbs at intersections shall be rounded, using the following minimum radii:
 - (A) Major - 50
 - (B) Minor - 45
 - (C) Collector - 30
 - (D) Local - 30

- (3) The minimums set forth in paragraph (J)(2) hereof shall increase to the following when the minimum angle of intersection is between sixty and seventy-five degrees:
 - (A) Major - 55
 - (B) Minor - 55
 - (C) Collector - 45
 - (D) Local - 40

- (4) Intersections with an angle less than sixty degrees will not be permitted.

§ 1117.03 SIDEWALKS.

- (A) Sidewalks shall be installed on both sides of all new public streets, unless this requirement is specifically waived by the Planning and Zoning Commission.
- (B) Sidewalks shall be a minimum width of four feet. Curb ramps shall be constructed at all street intersections. The ramps shall be constructed in accordance with specifications and details set forth by the City Engineer.
- (C) In addition, pedestrian easement ways, not less than twenty (20) feet wide and constructed to a width of not less than eight (8) feet, shall be required across blocks where the Commission determines that pedestrian access to schools, playgrounds, shopping centers, transportation and other community facilities is necessary.
- (D) Sidewalks shall be constructed of Portland cement concrete.

§ 1117.04 EASEMENTS.

- (A) As a minimum, a five (5)foot easement along side lot lines and a seven and one-half foot easement along rear lot lines shall be provided on all lots. The purpose of the easement shall be for stormwater facilities as needed.
- (B) Drainage easements shall be given to the City of Deer Park for all open channels or surface drainage courses. The width of the easement shall be determined by the Planning and Zoning Commission. The easement shall allow the City, or its agents or assigns, the right to reconstruct, operate and maintain said channel or drainage course, including the right to trim, cut, fell, remove and dispose of any and all timber, trees, underbrush, building improvements and other improvements currently thereon, to excavate, dredge, cut away and remove any or all of said land and to place thereon stones, rip-rap and other fill materials for the protection of the banks and for such other purposes as may be required in connection with said work.

§ 1117.05 UTILITIES.

The following are not mandatory locations, but, rather, are recommended locations, for underground utilities. Above-ground utilities should be located in the rear lot utility easements. Whenever possible, public utilities shall be located within the limits of a proposed right of-way as follows-

- (A) Sanitary Sewers. In the parklawn or under the sidewalk, on the south or east side of the street.
- (B) Storm Sewers. In the parklawn, on the north or west side of the street.
- (C) Water Lines. Under the sidewalk, on the north or west side of the street, with a minimum four and one-half foot cover.
- (D) Gas Lines. Under the sidewalk or in the parklawn, on the south or east side of the street.
- (E) Electric Telephone and Cable Television Lines. In rear and side lot easements.

§ 1117.06 LOTS.

- (A) Conformity to Zoning Code. The lot size, width and depth and the minimum building setback lines shall conform to the Zoning Code.
- (B) Corner Lots. Corner lots shall have extra width to permit the appropriate building setback from the orientation to both streets (see the Zoning Code).

- (C) Access to Public Streets. The subdividing of land shall provide each lot with full frontage on a public street.
- (D) Double-Frontage Lots. Lots shall not be laid out so that they have frontage on more than one street, except:
 - (1) Where the lots are adjacent to the intersection of two streets.
 - (2) Where it is necessary to separate residential lots from major arterial thoroughfares. In such cases, a reserve strip along the major arterial thoroughfare shall be deeded to the City. The plat shall state that there shall be no right of access across such reserve strip.
 - (e) Side Lot Lines. Side lot lines shall be substantially at right angles or radial to street lines.
 - (f) Depth. No lot depth shall exceed four times the lot width at the minimum building setback line.
 - (g) Size. Where public sanitary sewer facilities and/or water are not accessible, the minimum lot size shall be determined by the Hamilton County Health Department having authority in accordance with its regulations and criteria, but in no event shall the lot size be less that required by the Zoning Code.

§ 1117.07 SUBDIVISION COVENANTS.

All subdivision covenants shall run with the land and be enforceable by the owner of any of the property lying within the subdivision. Covenants shall be so written that they may be amended to meet changing conditions. All covenants shall indicate the proposed use of the land.

§ 1117.08 EROSION CONTROL PLAN.

An erosion control plan shall be developed and approve by the City Engineer.

§ 1117.09 STORM DRAINAGE.

- (A) A storm drainage system, designed in accordance with the Hamilton County Stormwater Management requirements, shall be constructed in each new subdivision. Also, a flood routing plan, for times when the storm sewer system is inadequate, shall be incorporated into any new subdivision.

- (B) The City may allow deletion of the retention pond provision, provided that an adequate drainage substitute is devised by the subdivider and is approved by the City Engineer.

Chapter 1119 Subdivision Improvements**§ 1119.01 GENERAL REQUIREMENTS; GRADING.****(A) In General.**

- (1) The improvements required shall be designed by an engineer, registered in the State of Ohio, and furnished and installed by the subdivider in accordance with the provisions of these Subdivision Regulations and other regulations of the State and City. The improvements shall be installed before the final plat is recorded by the subdivider unless a financial guarantee, as specified in these Regulations, has been approved and accepted by the Zoning Inspector prior to the recording by the subdivider.
- (2) Before work on any improvement is started, the subdivider must secure such permits as may be required and shall notify the appropriate governmental inspectors to insure that the work is done in conformance with the approved plans.

(B) Grading.

- (1) Streets must be graded the full width and slopes must be graded beyond the street line where necessary.
- (2) Sodding and seeding to prevent erosion shall be done on cuts or fills made under the above grading requirement.
- (3) In addition to the requirements set forth in the approved Erosion and Sedimentation Control Plan, other control measures shall be undertaken when deemed necessary by the City Engineer.
- (4) Lots shall be graded so that water drains away from each building.
- (5) As many trees as can be reasonably utilized in the final development plan shall be retained and the grading adjusted to the existing grade at the trees.
- (6) During the construction period, the topsoil shall not be removed from the site or used as fill, but shall be saved and uniformly spread over the lots as grading is finished.
- (7) All improvement plans shall show topographic conditions before grading and final elevations after grading, and provision shall be made so that areas graded

for flood routing are not changed when homes or other structures are constructed.

§ 1119.02 STORM DRAINAGE.

A storm drainage system, designed in accordance with the Hamilton County Stormwater Management requirements, shall be constructed in each new subdivision. Also, a flood routing plan for times when the storm sewer system is inadequate shall be incorporated into any new subdivision.

§ 1119.03 SANITARY SEWER AND WATER FACILITIES.

Adequate central sanitary sewer and water supply systems shall be provided by the developer by connection to existing public utility systems which are deemed adequate by the City Engineer to handle the additional demands and volume which will result from the proposed subdivision.

§ 1119.04 BEDDING AND BACKFILL.

Any utility trench or other excavation made within the limits of a proposed public right-of-way shall be bedded and backfilled according to the following:

- (A) All utility lines to be taken over by the City shall be bedded and backfilled from a point six inches below the pipe to a point six inches above the pipe with #57 aggregate, as specified in Section 703 of The Ohio Department of Transportation Construction and Material Specifications. This applies to sanitary sewer lines, water lines and storm sewer lines.
- (B) From the top of the initial backfill to the pavement sub-base, the trench shall be backfilled using any of the following:
 - (1) A controlled density backfill, such as:
 - (a) K-crete;
 - (b) Flash-fill; or
 - (c) Other backfill, as approved by the City Engineer; or
 - (2) O.D.O.T. Item 310, as listed in Chapter 703 of The Ohio Department of Transportation Construction and Material Specifications, compacted in two-foot lifts.
- (C) Materials excavated from utility trenches or other excavations shall only be used for backfill within the proposed right-of-way if approved in writing by the City Engineer.

This material must be compacted on one-foot lifts. Wet or non-compactable materials will not be approved for this use.

- (D) Sieve analysis or compaction density testing may be required at the discretion of the City Engineer.
- (E) All utility lines falling outside the limits of a proposed right-of-way that are intended to be dedicated to the City must be bedded and backfilled according to subsection (a) hereof. These utilities must also be incorporated into a public utility easement, a minimum of twenty (20) feet wide, and dedicated to the City.

§ 1119.05 CURBS AND GUTTERS.

Portland cement concrete curbs and gutters shall be installed in all new subdivisions within the corporate limits of the City. The type and style shall be determined by the City Engineer.

§ 1119.06 UNDERDRAINS.

Underdrains shall be constructed under all new curb and gutter sections as directed by the City Engineer. The appropriate time to discuss underdrains is when the sketch plat is submitted.

§ 1119.07 SIDEWALKS.

Sidewalks shall be provided on both sides of a public or private street.

§ 1119.08 STREET PAVEMENTS.

Streets shall be paved from edge of gutter pan to edge of gutter pan. The pavement may be either asphalt concrete, Portland cement concrete or a composite of the two and shall be constructed in accordance with the following:

Pavement Type/Street Classification		Asphaltic Concrete				Portland Cement Concrete Non-reinforced	Composite		
		304 Base Thickness	301 Base Thickness	402 Intermed. Course	404 Wearing Course		452 Thickness	305 Base Thickness	402 Intermed. Course
Local; Less than	option 1 option	6 -	-	2.75	1.25	6	5	-	1.5



Subdivision Improvements

500' in length	2		4.5	1.25	1.25				
Local; 500' or more in length	option 1	6	-	3	1.5	7	6	-	1.5
	option 2	-	4.5	1.25	1.25				
Collector	option 1	8	-	3	1.5	8	7	2	1.5
	option 2	-	6	1.25	1.25				
Minor or Major Arterial	Pavement is to be designed. For asphalt, use the asphalt institute thickness design procedures as set forth in Manual Series No. 1(MS-1)					For concrete, use the Ohio Ready Mix Concrete Assoc., Ohio Concrete Pavers Council, and Portland Cement Assoc. Design Manual - "Portland Cement Concrete Pavements".			
	Fibers shall be polypropylene. Contact City Engineer for detailed specifications.					Thicknesses are in inches.			

§ 1119.09 STREET SIGNS.

The developer, after receiving final plat approval and prior to undertaking construction, shall pay to the City, in accordance with the fee schedule adopted by City Council the appropriate amount for traffic signage, which signage will then be installed by the City of Deer Park.

§ 1119.10 STREET LIGHTS.

Street lights, shall be installed by the subdivider on all streets within the subdivision. The number and location of such street lights shall be determined by an engineering study performed by Duke Energy, as appropriate for the subdivision, and approved by the City Zoning Inspector. The type of street light shall be determined by the Planning and Zoning Commission and generally consists of the decorative street light fixture and pole specified by the City.

§ 1119.11 BOUNDARY SURVEYS.

- (A) General Standards. The "Minimum Standards for Boundary Surveys", set forth in Chapters 4733 to 4737 of the Ohio Administration Code, shall apply if not specifically superseded herein.
- (B) Exterior Boundary Traverse. A complete boundary survey of the parcel being subdivided shall be made by a registered Ohio surveyor. The traverse shall close within a limit of error of one foot to 10,000 feet of the perimeter before balancing the survey.
- (C) Monuments.
 - (1) A monument made of concrete or other material approved by the City Engineer, meeting the following minimum conditions, shall be installed at each corner or bend in the exterior boundary traverse:
 - (a) Length: thirty inches
 - (b) Diameter: four inches
 - (c) A steel rod (one-half inch in diameter), running the full length of the monument in the center of the monument.
 - (d) A durable marker bearing the surveyor's registration number and/or name or company name.
 - (2) Each new lot corner not receiving a concrete monument shall be pinned using either a solid steel pin with a minimum one-half inch diameter or a three-quarter inch steel pipe, along with a durable marker bearing the surveyor's registration number and/or name or company name. The minimum length for the pins is thirty inches.
 - (3) Curves in either the exterior boundary survey or new lots shall have the PC (point of curvature) and the PT (point of tangency) either monumented or pinned as appropriate.

§ 1119.12 COMPLIANCE WITH CITY STANDARDS REQUIRED; CONFLICTS.

All public improvements shall meet the standards set forth in this Chapter, plus the adopted construction standards of the City presently in effect or any standards that are adopted subsequent to these Subdivision Regulations. Should the improvement regulations set forth in this Chapter conflict with any existing or later adopted construction standards, the more restrictive regulations shall apply.

TITLE FIVE ZONING DISTRICT REGULATIONS**Chapter 1121 Zoning Map****§ 1121.01 ZONING MAP.**

The location and boundaries of zoning districts are shown on the map titled "The City of Deer Park Zoning Map." A certified copy of this map is on file in the office of the Safety-Service Director and said map, together with all notations, dimensions, and designations shown thereon are hereby declared to be a part of this Zoning Code. The Zoning Map shall be signed by the Mayor and attested to by the City Clerk.

§ 1121.02 INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the Zoning Map, the following rules shall apply:

- (A) *Parallel district boundaries.* Where district boundaries appear to be approximately parallel to the center lines or street lines of streets or the center lines or right-of-way lines of highways, such district boundaries shall be construed as parallel thereto and at such distance therefore as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Zoning Map.
- (B) *Boundaries of zoning districts.* Boundaries of zoning districts are intended to follow property lines. Where zoning district boundaries are shown as being parallel to a right-of-way, those lots that have frontage on such right-of-way are intended to be within such a zoning district.
- (C) *Lot lines, railroad lines, and waterways.* Where district boundaries approximately follow lot lines, such lot lines shall be construed as a boundary of a zoning district. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line. Where the boundary of a district follows (or parallels) a waterway, such boundary shall be deemed to be located in the middle (or parallel to) the centerline of said waterway.
- (D) *Interpretation by Planning and Zoning Commission.* Any questions of interpretation of the Zoning Map which cannot otherwise be resolved, shall be referred to the Planning and Zoning Commission for a determination.

§ 1121.03 ESTABLISHMENT OF DISTRICTS.

For the purpose of regulating and restricting the location of buildings, structures, and land use, the city is divided into zoning districts as shown on the Zoning Map. These districts include the following and may be illustrated on the Zoning Map.

Deer Park Zoning Districts

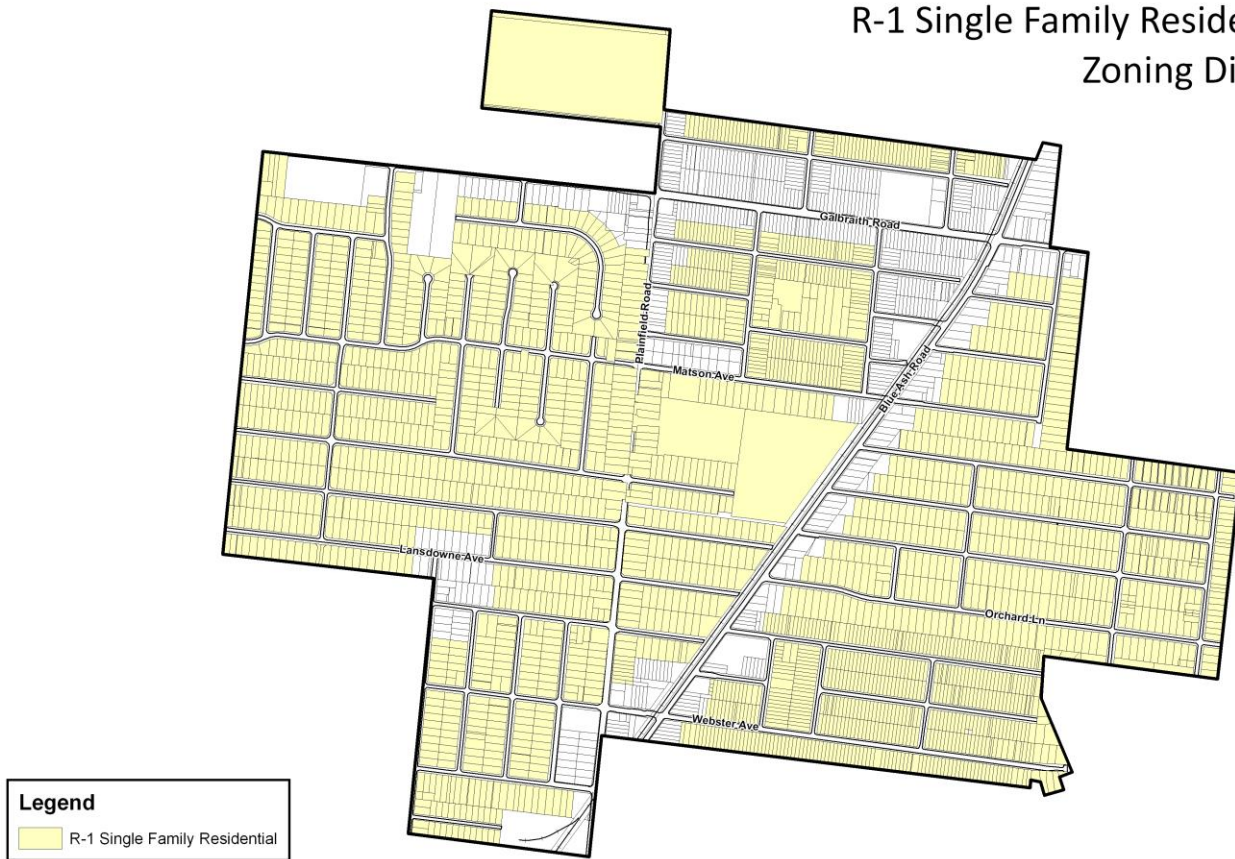
R-1	Single Family Residential District
R-2	Single Family Residential District
PR	Planned Multi-Family Residential District
RNC	Residential - Nursing Care District
PO	Planned Office District
MUB	Mixed-Use Business District
PUD	Planned Unit Development District

Chapter 1123 R-1 Single-Family Residential District

§ 1123.01 PURPOSE.

This district is established to provide areas for single-family detached dwellings on individual lots to provide areas for accessory and nonresidential uses that complement single-residential uses, and to discourage incompatible nonresidential uses in single-family residential neighborhoods.

R-1 Single Family Residential
Zoning District



§ 1123.02 PERMITTED USES.

A building or lot within an R-1 Single-Family Residential District shall be used only for the following purposes:

- (A) Single-family detached dwellings.
- (B) Private and public schools for grades K-12.
- (C) Public parks and recreation areas.
- (D) Accessory structures and uses incidental to the above uses.

§ 1123.03 CONDITIONAL USES.

The following conditional uses may be approved in accordance with Chapter 1149.

- (A) Bed and breakfast operations.
- (B) Public buildings and uses.
- (C) Churches or places of religious worship.
- (D) Home occupations as set forth in Chapter 1149.
- (E) Any other use deemed to be of a similar nature as those above by the Planning and Zoning Commission.

§ 1123.04 MINIMUM LOT AND YARD SIZES, MAXIMUM LOT COVERAGE.

Required minimum lot and yard sizes and maximum lot coverages are set forth in Chapter 1137.

§ 1123.05 SETBACK REQUIREMENTS.

Required minimum setback requirements for principal structures permitted under this Chapter are set forth in Chapter 1137.

§ 1123.06 MINIMUM DWELLING AREAS.

Single-family dwellings. For two-story single-family dwellings, no such dwelling shall have a living area of less than 1,400 square feet of livable floor areas, exclusive of garages, cornices, eaves, gutters, porches, balconies, terraces, or outside enclosures. For single-story (“ranch style”) single-family dwellings, no such dwelling shall have a living area of less than 1,100 square feet of livable

floor areas, exclusive of garages, cornices, eaves, gutters, porches, balconies, terraces, or outside enclosures.

§ 1123.07 ADDITIONAL STANDARDS.

- (A) *Architectural standards.* All principal and accessory structures permitted under this Chapter shall conform to the predominant surrounding architectural character of the area. Elements that define surrounding architectural character include roof and window types, architectural styles, colors, and ancillary elements such as landscaping and fences. The Planning and Zoning Commission shall approve the architectural design for all new principal structures in this district on a case-by-base basis.

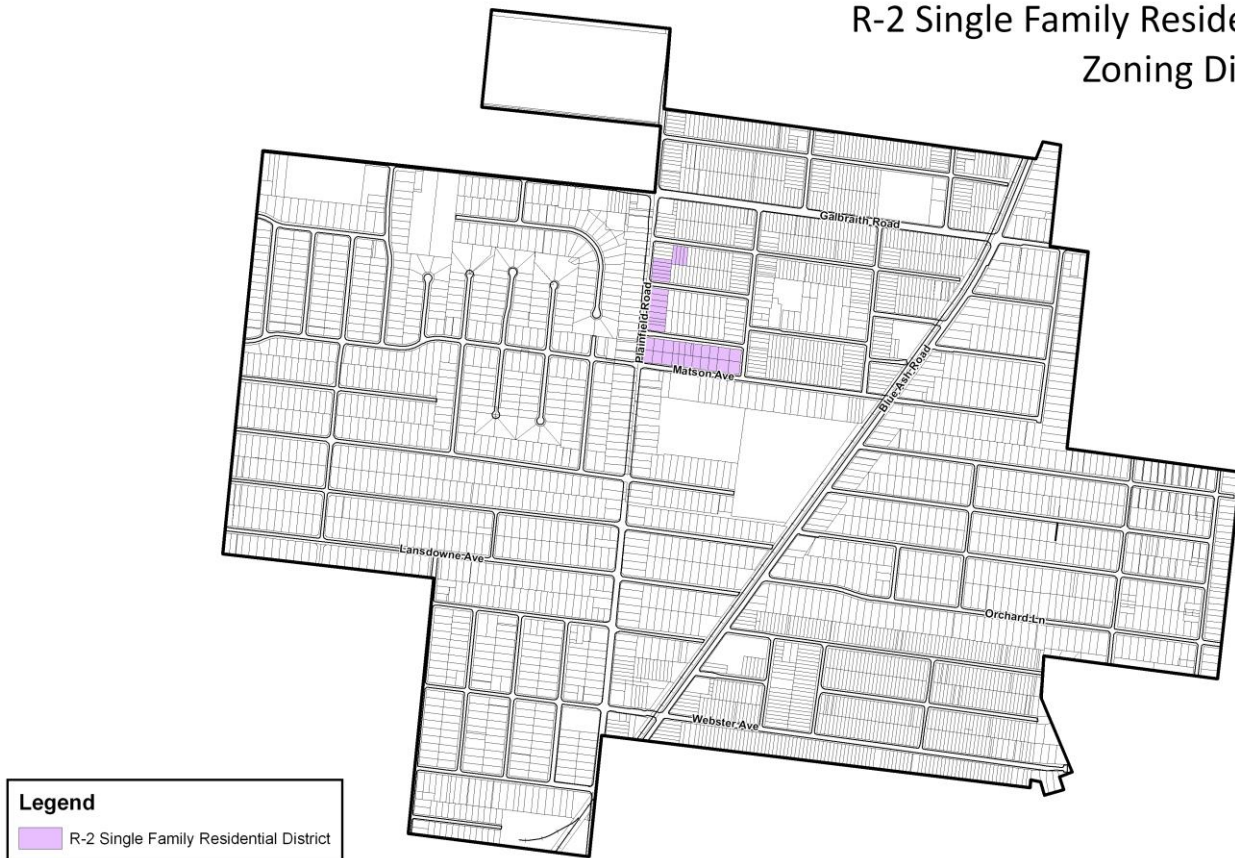
- (B) *Exterior Building Materials.* All new principal and accessory structures constructed in this zoning district shall be constructed of the following exterior materials: vinyl or aluminum siding, brick, natural stone and cultured stone products, wood and cement siding products featuring a simulated wood appearance. *((B) edit to Code 7-12-10 Res.10-09)*

Chapter 1125 R-2 Single-Family Residential District

§ 1125.01 PURPOSE.

This District is established to provide areas for single-family detached dwellings on individual lots and to provide for accessory and nonresidential uses that complement single-family residential neighborhoods and to discourage incompatible nonresidential uses in single-family residential neighborhoods.

R-2 Single Family Residential
Zoning District



§ 1125.02 PERMITTED USES.

A building or lot within an R-2 Single-Family Residential District shall be used only for the following purposes:

- (A) Single-family detached dwellings.
- (B) Private and public schools for grades K-12.
- (C) Public parks and recreation areas.
- (D) Accessory structures and uses incidental to the above uses.

§ 1125.03 CONDITIONAL USES.

The following conditional uses may be approved in accordance with Chapter 1149.

- (A) Churches or places of religious worship.
- (B) Public buildings and uses.
- (C) Bed and breakfast operations.
- (D) One-family dwellings designed with one zero lot line.
- (E) Home occupations as set forth in Chapter 1149.
- (F) Any other use deemed to be of a similar nature as those above by the Planning and Zoning Commission.

§ 1125.04 MINIMUM LOT AND YARD SIZES, MAXIMUM LOT COVERAGE

Required minimum lot and yard sizes and maximum lot coverage are set forth in Chapter 1137.

§ 1125.05 SETBACK REQUIREMENTS.

Required minimum setback requirements for principal structures permitted under this Chapter are set forth in Chapter 1137.

§ 1125.06 MINIMUM DWELLING AREAS.

Single-family dwellings. For two-story single-family dwellings, no such dwelling shall have a living area of less than 1,400 square feet of livable floor areas, exclusive of garages, cornices, eaves,

gutters, porches, balconies, terraces, or outside enclosures. For single-story (“ranch style”) single-family dwellings, no such dwelling shall have a living area of less than 1,100square feet of livable floor areas, exclusive of garages, cornices, eaves, gutters, porches, balconies, terraces, or outside enclosures.

§ 1125.07 **ADDITIONAL STANDARDS.**

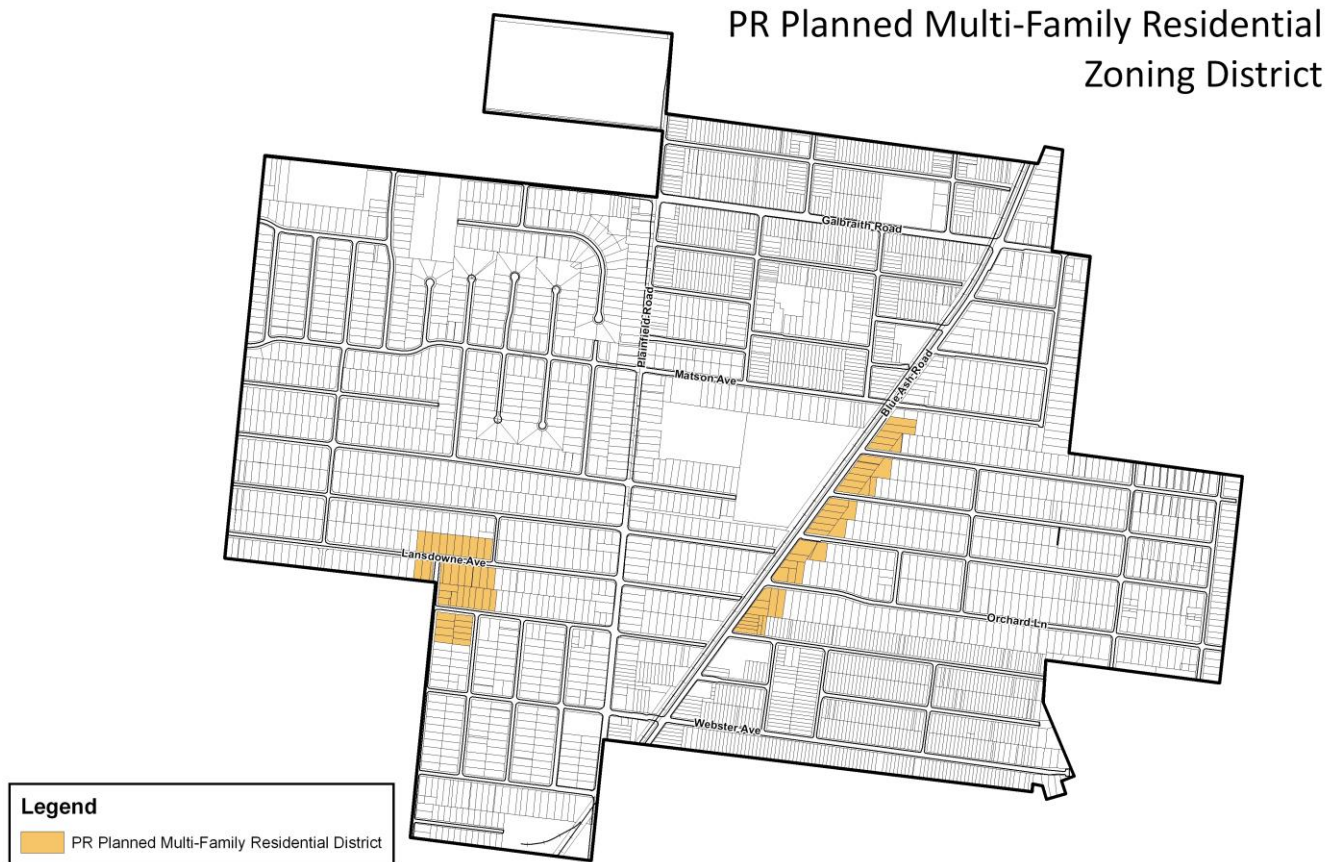
- (A) *Architectural standards.* All principal and accessory structures permitted under this Chapter shall conform to the predominant surrounding architectural character of the area. Elements that define surrounding architectural character include roof and window types, architectural styles, colors, and ancillary elements such as landscaping and fences. The Planning and Zoning Commission shall approve the architectural design for all new principal structures in this district on a case-by-base basis.

- (B) *Exterior Building Materials.* All new principal and accessory structures constructed in this zoning district shall be constructed of the following exterior materials: vinyl or aluminum siding, brick, natural stone and cultured stone products, wood and cement siding products featuring a simulated wood appearance. *((B) edit to Code 7-12-10 Res.10-09)*

Chapter 1127 PR Planned Multi-Family Residential District

§ 1127.01 PURPOSE.

This District is established to provide areas for attached, detached, and/or mixed residential development, with a wide range of densities and multiple-family housing types; to relate higher density residential development to community utilities and facilities as well as site characteristics; to locate parcels appropriate for development at higher residential densities in closer proximity to community services and facilities; to offer a wide range of residential living environments, and to allow nonresidential activities compatible with a multiple-family neighborhood.



§ 1127.02 PERMITTED USES.

A building or lot within a PR Planned Multi-Family Residential District shall be used only for the following purposes:

- (A) Multiple-family dwelling units.
- (B) First Floor Non-Residential Land Uses. The following land uses shall be permitted only on the first floor of a mixed use building when multi-family dwelling units are provided on one or more upper level floors and the permitted non-residential uses occupy all of the first floor:
 - (1) Restaurants, excluding drive-thru service.
 - (2) Banks and similar financial institutions
 - (3) Professional activities and services, such as doctors, attorneys and architects and other similar professional service providers.
 - (4) Office uses.
 - (5) Specialized retail uses and shops, excluding sexually oriented businesses.
- (C) Public and private parks.
- (D) Accessory structures and uses incidental to the above uses.

§ 1127.03 CONDITIONAL USES.

The following conditional uses may be approved in accordance with Chapter 1149.

- (A) Churches or places of religious worship.
- (B) Public buildings and uses.
- (C) Child care centers, as defined in Chapter 1149.
- (D) Nursing homes.
- (E) Bed and breakfast operations.
- (F) Home occupations as set forth in Chapter 1149.

- (G) Any other use deemed to be of a similar nature as those above by the Planning and Zoning Commission.

§ 1127.04 MINIMUM LOT AND YARD SIZES; MAXIMUM LOT COVERAGE.

Required minimum lot and yard sizes and maximum lot coverages are set forth in Chapter 1137.

§ 1127.05 SETBACK REQUIREMENTS.

Required minimum setback requirements for principal structures permitted under this Chapter are set forth in Chapter 1137.

§ 1127.06 MINIMUM DWELLING UNIT AREAS.

- (A) **Standard Multiple-Family Building.** In a standard multiple-family building that contains only residential dwelling land uses, each residential dwelling unit must contain at least one bathroom in addition to the meeting the following minimum square footages in the living quarters:
 - (1) A one bedroom unit shall have a minimum of 850 square feet of livable space.
 - (2) A two bedroom unit shall have a minimum of 1,000 square feet of livable space.
 - (3) A three bedroom unit shall have a minimum of 1,150 square feet of livable space.

- (B) **Mixed-Use Building.** When a mixed-use building contains permitted non-residential land uses on the first floor with upper floor residential dwelling units, each dwelling unit must contain at least one bathroom in addition to the meeting the following minimum square footages in the living quarters:
 - (1) A studio unit shall have a minimum of 550 square feet of livable space.
 - (2) A one bedroom unit shall have a minimum of 650 square feet of livable space.
 - (3) A two bedroom unit shall have a minimum of 875 square feet of livable space.
 - (4) A three bedroom unit shall have a minimum of 1,100 square feet of livable space.

§ 1127.07 SITE PLAN REVIEW.

- (A) *Site Plan Required.* A site plan following the procedure and requirements set forth in Chapter 1139, shall be required for all new structures and qualified expansion projects under this Chapter

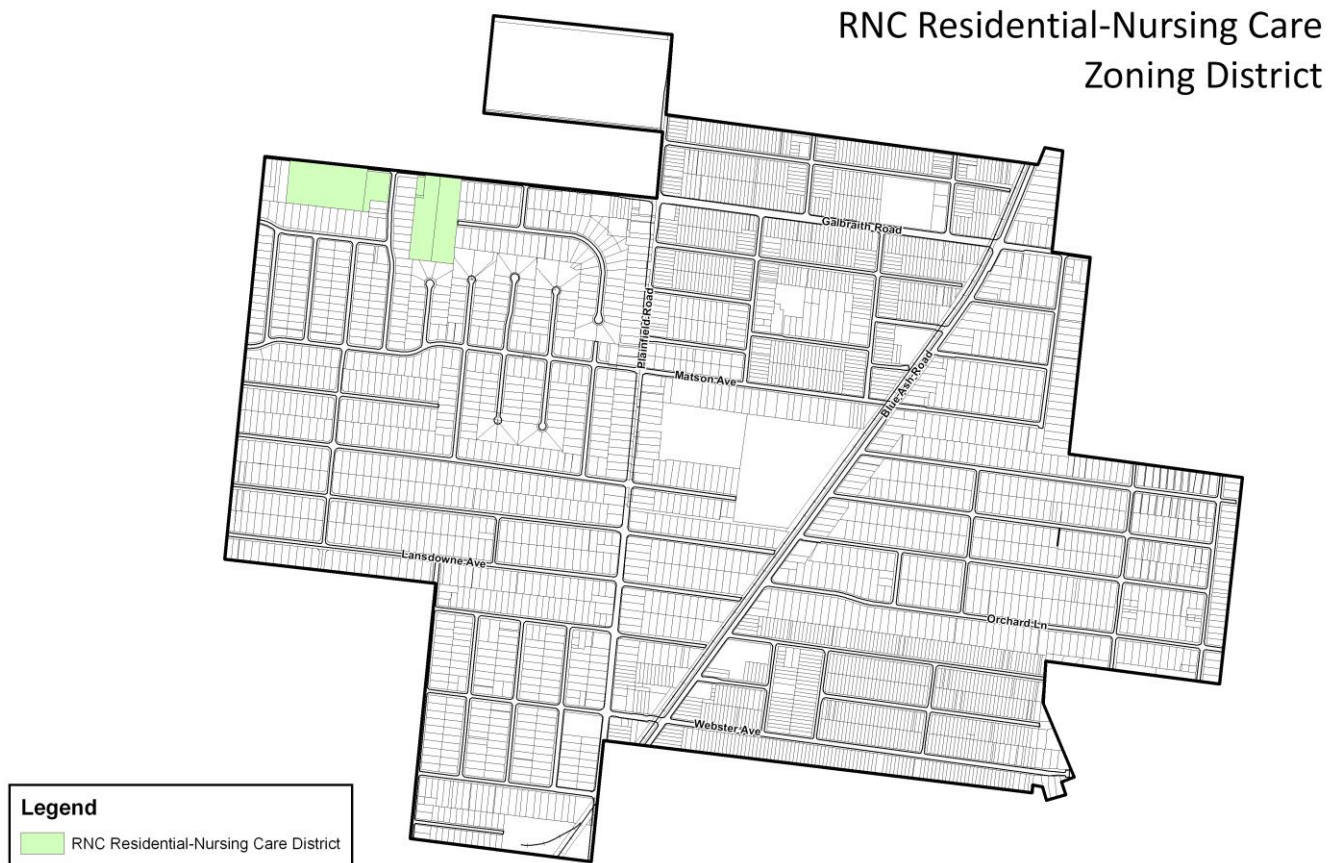
- (B) *Architectural standards.* All principal structures subject to site plan review requirements under this Chapter shall conform to the predominant surrounding architectural character of the area. Elements that define surrounding architectural character include roof and window types, architectural styles, colors, and ancillary elements such as landscaping and fences. The Planning and Zoning Commission shall approve the architectural design for all new principal structures in this district on a case-by-case basis.
 - (1) All new construction projects consisting of non-residential or mixed-use buildings shall satisfy the applicable site and architectural design guidelines set forth in Chapter 1133.
 - (2) All façade improvement projects for non-residential and mixed-use buildings shall satisfy the applicable architectural design guidelines set forth in Chapter 1133.

- (C) *Exterior Building Materials.* All new principal and accessory structures constructed in this zoning district shall be constructed of the following exterior materials: vinyl or aluminum siding, brick, natural stone and cultured stone products, wood and cement siding products featuring a simulated wood appearance. *((C) edit to Code 7-12-10 Res.10-09)*

Chapter 1129 RNC Residential/Nursing Care District

§ 1129.01 PURPOSE.

This District is established to provide areas for single-family detached dwellings on individual lots and multi-family dwellings and to provide for accessory and nonresidential uses that complement residential neighborhoods. In addition, this District is to provide suitable locations for long-term care facilities to include nursing homes, multi-stage assisted living facilities, hospitals, medical laboratories, and related professional offices.



§ 1129.02 PERMITTED USES.

A building or lot within the Residential/Nursing Care District shall be used only for the following purposes:

- (A) Single-family dwellings in accordance with the R-2 Single-Family zoning district regulations.
- (B) Planned multi-family dwelling units in accordance with the PR Planned Multi-Family zoning district regulations.
- (C) Private and public parks.
- (D) Recreational facilities
- (E) Hospitals.
- (F) Long-term care facilities.
- (G) Professional and consulting offices, including medical clinics and doctor/dental offices.
- (H) Accessory structures and uses incidental to the above uses.

§ 1129.03 CONDITIONAL USES.

The following conditional uses may be approved in accordance with Chapter 1149.

- (A) Child care centers as set forth in Chapter 1149.
- (B) Bed and breakfast operations.
- (C) Home occupations as set forth in Chapter 1149.
- (D) Any other use deemed to be of a similar nature as those above by the Planning and Zoning Commission.

§ 1129.04 MINIMUM LOT AND YARD SIZES; MAXIMUM LOT COVERAGE.

Required minimum lot and yard sizes and maximum lot coverages are set forth in Chapter 1137.

§ 1129.05 SETBACK REQUIREMENTS.

- (A) Single-family dwellings constructed under this Chapter shall conform to the setback requirements set forth in the R-2 Single-Family zoning district as set forth in Chapter 1137.
- (B) Multi-family dwellings constructed under this Chapter shall conform to the setback requirements set forth in the PR Planned Multi-Family Residential zoning district as set forth in Chapter 1137.
- (C) All other permitted uses constructed under this Chapter shall conform to the setback requirements for the RNC Residential - Nursing Care zoning district as set forth in Chapter 1137.

§ 1129.06 MINIMUM DWELLING AREAS.

- (A) *Single-family dwellings.* For single-family detached dwellings, the minimum dwelling area shall conform to the provisions set forth in the R-2 Single-Family district.
- (B) *Multi-family dwellings.* For multi-family dwellings, the minimum dwelling (unit) area shall conform to the provisions set forth in PR Planned Multi-Family Residential district.

§ 1129.07 SITE PLAN REVIEW.

- (A) *Site Plan Required.* A site plan following the procedure and requirements set forth in Chapter 1139, shall be required for all new structures and qualified expansion projects under this Chapter, with the exception of single-family dwellings which shall follow the applicable minor or major subdivision regulations set forth in Chapter 1115.
- (B) *Architectural standards.* All principal and accessory structures constructed under this Chapter shall conform to the predominant surrounding architectural character of the area. Elements that define surrounding architectural character include roof and window types, architectural styles, colors, and ancillary elements such as landscaping and fences. The Planning and Zoning Commission shall approve the architectural design for all new principal structures in this district on a case-by-base basis.
- (C) *Exterior Building Materials.* All new principal and accessory structures constructed in this zoning district shall be constructed of the following exterior materials: vinyl or aluminum siding, brick, natural stone and cultured stone products and cement siding products featuring a simulated wood appearance. ((C) edit to Code 7-12-10 Res.10-09)

Chapter 1131 PO Planned Office District

§ 1131.01 PURPOSE.

The purpose of the Planned Office District is to reserve certain strategically located parcels, within the city, for the creation of concentrated economic development activity through the construction of high density office and medical related land uses.

PO Planned Office
Zoning District



§ 1131.02 PERMITTED USES.

A building or lot within the Planned Office District shall be used only for the following purposes:

- (A) Office uses.
- (B) Professional activities.
- (C) Hospitals.
- (D) Long-term care facilities.
- (E) Professional and consulting offices, including medical clinics and doctor/dental offices.
- (F) Accessory structures and uses incidental to the above uses.

§ 1131.03 CONDITIONAL USES.

The following conditional uses may be approved in accordance with Chapter 1149.

- (A) Educational Institutions *(added to Code 7-12-10 Res.10-09)*
- (B) Any other use deemed to be of a similar nature as those above by the Planning and Zoning Commission.

§ 1131.04 MINIMUM LOT AND YARD SIZES, MAXIMUM LOT COVERAGE.

Required minimum lot and yard sizes and maximum lot coverages are set forth in Chapter 1137.

§ 1131.05 SETBACK REQUIREMENTS.

Required minimum setback requirements for principal structures permitted under this Chapter are set forth in Chapter 1137.

§ 1131.06 SITE PLAN REVIEW.

Plans to construct new buildings, construct building expansions or make changes to the exterior of existing structures or other environmental features in the Planned Office District are subject to review by the Planning and Zoning Commission by utilizing the site plan review process set forth in Chapter 1139. This design review shall be conducted as part of the site plan review process and shall be incorporated into the site plan application requirements. The applicant shall submit with the site plan application, drawings, materials, and color samples, and any other aids that would assist the Planning

and Zoning Commission in understanding the proposed project and to determine conformance with the design requirements of this Section.

§ 1131.07 DESIGN REQUIREMENTS.

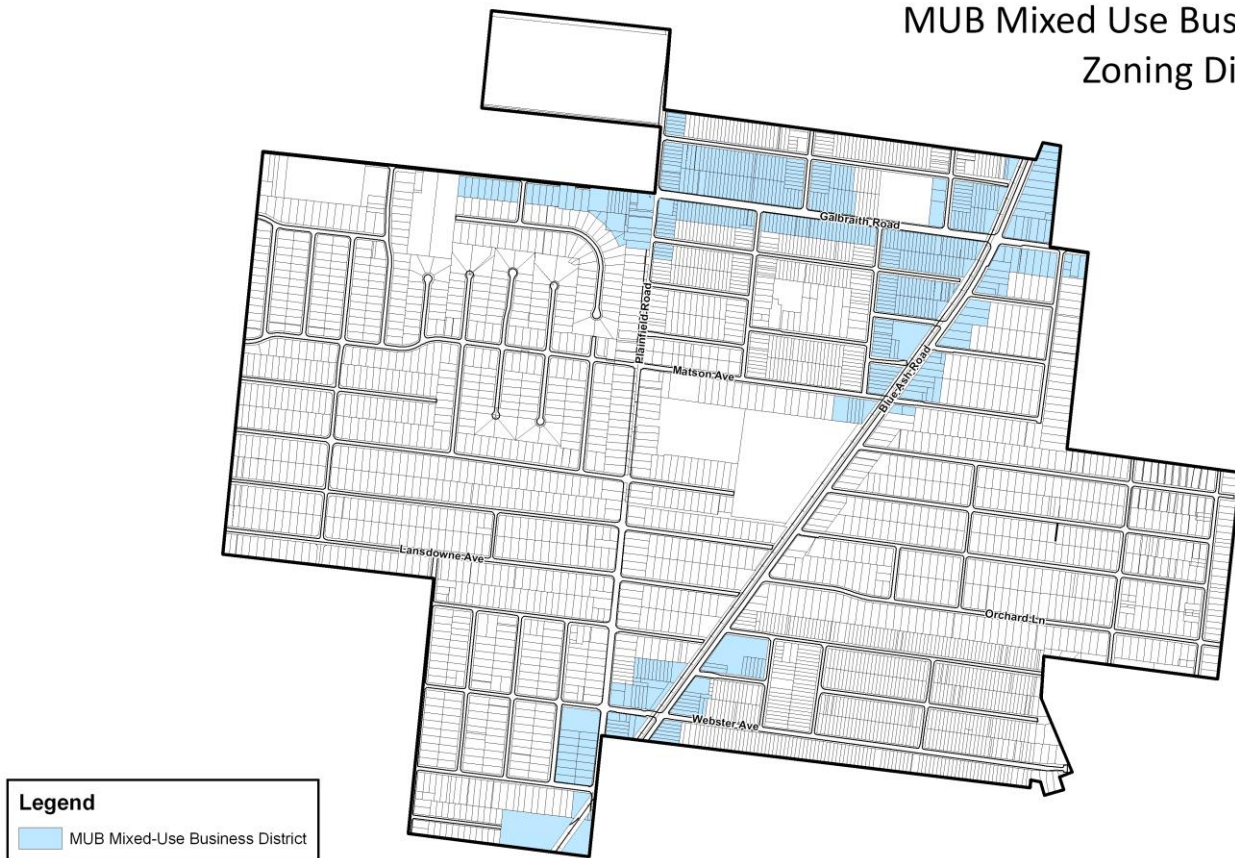
- (A) *Existing structures and new construction.* The reconstruction or rehabilitation of an existing structure and the construction of a new structure or building within the PO Planned Office District shall conform to the design requirements set forth in this Section.
- (B) The design of new structures and of additions to existing structures, including new site improvements, shall take into account a uniform architectural style, general design, arrangement, texture, material, and color of other structures and premises within the Mixed Use Business District. Traditional architectural design shall be utilized. Modern designs incorporating more radical architectural styles shall be avoided.
- (C) *Materials.*
 - (1) All new structures and all reconstruction or remodeling of existing structures within the Planned Office District shall utilize natural traditional exterior materials, such as brick, natural stone, cultured stone.
 - (2) Contemporary materials, such as cement siding products or vinyl or aluminum siding, may be used if they would contribute to the preservation or enhancement of existing integrity and new structure and be architecturally harmonious. Any proposed exterior material not listed in this section must be approved by the Planning and Zoning Commission. *((2) edit to Code 7-12-10 Res.10-09)*
- (D) *Color.* Traditional earth tone colors, and combinations of those colors shall be used for building exteriors for all new construction, reconstruction, remodeling, and exterior maintenance of existing principal and accessory structures within the Planned Office District. Bright, fluorescent or other similar colors should be strictly prohibited.

Chapter 1133 MUB Mixed Use Business District

§ 1133.01 PURPOSE.

The purpose of the Mixed Use Business District is to lawfully characterize, promote and protect the city's most visible and economic core business areas. This district is intended to create a diverse and active mix of land uses emphasizing pedestrian level scale and activity.

MUB Mixed Use Business
Zoning District



§ 1133.02 PERMITTED USES.

A building or lot within the MUB Mixed Use Business District shall be used only for the following purposes:

- (A) Specialized retail uses and shops, including furriers, millinery, shops dealing with women's and men's wearing apparel, including shoe shops, antique shops, jewelry stores, gift shops, bookstores, and video stores (other than adult book stores or video stores), florist shops, photographer or artist studios, and pharmacies.
- (B) Printing shops having a sales office or retail outlet on the premises.
- (C) Repair services or businesses, including repairing of bicycles, radios, television sets, and other home appliances, typewriters, watches, clocks, and shoes, and having a retail outlet on the premises.
- (D) Public and private parks.
- (E) Animal hospitals and veterinary offices where there are no outside runs or kennels.
- (F) Private or nonprofit clubs and lodges.
- (G) Restaurants, provided that service is not made to parked automobiles.
- (H) Laundromats and dry cleaning establishments.
- (I) Churches or other places of religious worship.
- (J) Banks and similar financial institutions.
- (K) Off-street parking lots.
- (L) Personal service establishments such as barber shops, beauty salons, and tanning establishments.
- (M) Residential dwelling units located on a second, third or fourth floor where the first floor is occupied by a permitted commercial, retail or office establishment.
- (N) Theaters and concert halls.
- (O) Public and quasi-public buildings and uses, such as libraries, museums, and public service offices.

- (P) Professional activities and services, such as doctors, attorneys and architects and other similar professional service providers.
- (Q) Computer repair and service facilities, including internet service providers.
- (R) Accessory structures and uses incidental to the above uses.
- (S) Medical Supply Outlet (Pharmacy)
- (T) Sexually Oriented Businesses.
 - (1) A permitted use by sexually oriented businesses in this district shall comply with the following requirements: Sexually oriented businesses, as defined in Chapter 1157 shall be permitted, provided the proposed location of such use is more than 1,000 feet from all the following uses:
 - (a) Any residential zoning district as established by this Zoning Code of the City of Deer Park or this Zoning Code of any adjacent political subdivision.
 - (b) Any church, synagogue, permanently established place of worship, school, library or public playground attended by persons under the age of 18.
 - (c) Any other recreational facility or amusement park attended by persons under 18 years of age.
 - (d) Any hotel, motel or bed and breakfast lodging establishment.
 - (e) Any other sexually oriented business.
 - (f) Any establishment licensed by the State of Ohio for the sale of beer or intoxicating liquor for consumption on the premises.
 - (g) Pawn shops.
 - (h) Pool or billiard halls.
 - (i) Video game or pinball palaces, halls or arcades.
 - (2) The measure of distance for purposes of this subsection shall be from property line to property line along the shortest possible course, regardless of any customary or common route or path of travel.

- (3) The Zoning Inspector shall consider only the following:
- (a) Whether the sexually oriented business is seeking to locate in a MUB District;
 - (b) Whether the proposed location of the sexually oriented business is at least 1,000 feet from the uses listed in this subsection. The determination shall be made without a public hearing being held and must be made within 10 days of the effective date of this section or within ten days of the receipt of a completed application for a zoning permit, whichever is less. An applicant or an aggrieved party may appeal a decision of the Zoning Inspector or the Planning and Zoning Commission to the Board of Zoning Appeals pursuant to Chapter 1105. Such appeal must be made within 30 days of the claimed adverse decision. The Board of Zoning Appeals shall hear and decide sexually oriented business appeals within 30 days of the filing of the appeal by the applicant or the aggrieved party. Further appeal shall be to a court of competent jurisdiction as provided by law.

§ 1133.03 CONDITIONAL USES.

The following uses may be approved in accordance with Chapter 1149.

- (A) Convenience stores.
- (B) Automobile gasoline and service stations.
- (C) Outdoor vending machines.
- (D) Any drive-in or drive-through facilities.
- (E) Detached residential dwellings subject to the conditions set forth in the underlying R-1 zoning district.
- (F) Child care center as defined in Chapter 1149.
- (G) Tattoo Parlors and Body Piercing Establishments.
- (H) Community or Club Swimming Pools.
- (I) Food Truck Park
- (J) Any other use deemed to be of a similar nature as those above by the Planning and Zoning Commission.

§ 1133.04 MINIMUM LOT AND YARD SIZES, MAXIMUM LOT COVERAGE.

Required minimum lot and yard sizes and maximum lot coverages are set forth in Chapter 1137.

§ 1133.05 SETBACK REQUIREMENTS.

Required minimum setback requirements for principal structures permitted under this Chapter are set forth in Chapter 1137.

§ 1133.06 SITE PLAN REVIEW.

Plans to construct new buildings, construct building expansions or make changes to the exterior of existing structures or other environmental features in the Mixed Use Business District are subject to review by the Planning and Zoning Commission by utilizing the site plan review process set forth in Chapter 1139. This design review shall be conducted as part of the site plan review process and shall be incorporated into the site plan application requirements. The applicant shall submit with the site plan application, drawings, materials, and color samples, and any other aids that would assist the Commission in understanding the proposed project and to determine conformance with the design requirements of this Section.

§ 1133.07 SITE AND ARCHITECTURAL DESIGN REQUIREMENTS.

- (A) Purpose. The purpose of these site and architectural design requirements is to define the criteria for the site and architectural design of qualifying projects under this Chapter that will achieve long term quality and support the goals and objectives of the Comprehensive Plan.
- (B) Design Requirement Applicability.
 - (1) The construction of a new primary building or the qualified expansion of an existing primary building as set forth under Chapter 1139 within the Mixed Use Business zoning district shall conform to the applicable site and architectural design requirements set forth in this Chapter.
 - (2) Any new or expanded accessory building or structure shall be in compliance with the applicable architectural and site design requirements set forth in this Chapter.
 - (3) Any proposed façade or structural improvements to an existing building shall be in compliance with the applicable architectural and site design requirements set forth in this Chapter. Building façade improvements shall include re-painting or other proposed aesthetic improvements.

- (4) Single-family, two-family and three-family residential dwellings located in the MUB zoning district shall be exempt from the design guidelines set forth in this Chapter. Single-family dwellings shall satisfy any applicable architectural or site design guidelines set forth in Chapter 1123 and two-family and three-family dwellings shall satisfy any applicable architectural or site design guidelines set forth in Chapter 1127.
- (C) Architectural Design Requirements. The design or improvement or qualifying structures, including new or modified site improvements, shall take into account a uniform architectural style, general design, arrangement, texture, material, and color of other structures and premises within the Mixed Use Business District. Traditional architectural design shall be utilized in this zoning district.
- (1) Building Entrance. The main entrance of the structure shall be oriented toward the street on which the structure fronts. If the site is on a corner lot, the buildings' main entrance should front the corner as the preferred building orientation. An alternative preferred building orientation may have its main entrance oriented to either street and. In no case shall the main public entrance open directly onto a parking lot. No overhead doors are permitted facing a street.
 - (2) Building Façade Design. The Planning and Zoning Commission shall approve the design, materials and color selection for all new principal and accessory structures constructed, all new qualifying expansions and all proposed building façade improvement projects undertaken in the MUB zoning district consistent with these guidelines during the site plan review stage. All primary buildings that face a street shall conform to the following design criteria:
 - (a) Windows. All building facades visible from the street shall have windows with transparent, non-reflective glass, with the following requirements:
 - (i) First floor: minimum 60% façade, 70% maximum.
 - (ii) Second floor and above: minimum 20% of façade, 60% maximum.
 - (iii) Butt-joint glazing is prohibited.

- (iv) Windows on the first floor shall be a minimum of two (2) feet above the finished floor level.
 - (v) Clear glass is preferred on the first floor. Thermal or low-E glass units may be permitted only if the reflective or tinted coating does not substantially hinder public view of the interior space from the sidewalk or roadway.
 - (b) Doors. All doors in a glass storefront shall match the glass storefront. The use of solid wood or solid metal doors in a glass storefront is prohibited.
- (3) Exterior Building Materials. The permitted exterior building material for the Mixed Use Business District shall be brick, natural stone, cultured stone, wood, or concrete siding products designed to substantially imitate the look of traditional wood siding. Vinyl or aluminum siding products are permitted and shall not exceed 25% of any building face. Other masonry products may be permitted if approved by the Planning and Zoning Commission. These exterior materials shall be used as the predominant exterior building materials for all new construction, reconstruction, renovations, and additions. Foundation material may be plain concrete or plain concrete block when the foundation material does not extend more than three (3) feet above grade. Cement-based finishes, cement plaster, and Exterior Insulation Finish System (E.I.F.S.) may be permitted as a secondary exterior building material only if used a minimum of ten (10) feet above grade, where they will be less susceptible to damage. The selection of exterior building materials shall contribute to the traditional design and character of the building. *((3) edit to Code 7-12-10 Res.10-09)*
- (4) Architectural Guidelines. The architectural style desired for the Mixed Use Business District shall be set forth in the Deer Park Comprehensive Plan. Every effort should be made to incorporate key architectural elements of those desired styles into the design of the proposed building or façade improvement. Key architectural building elements of the desired styles include, but are not limited to, the following:
- (a) Flat roofs should be prohibited unless the roof is intended to support an ancillary use including, but limited to: a roof top bar or dining area, rooftop amenities for the building occupants such as an outdoor lounge space, gardening area and other similar uses or accessory structures. Placing building mechanical equipment on a flat roof as the only use or

- structure of the roof shall not be permitted. The Planning and Zoning Commission shall either approve or deny the construction of a new flat roof on a case-by-case basis.
- (b) Roofs shall provide substantial architectural detail intended to break up the roof line, otherwise, a minimum 6/12 pitch roof shall be required.
 - (c) The use of simple, vertical lines in building design.
 - (d) All gable roofs shall maintain a minimum 12 inch eave overhang.
- (5) Side or Rear Façade Design. Wherever a side or rear facade is visible from a public street, or if parking is located at the side or rear of a building, the facade shall be designed to create a pleasing appearance, in accordance with the following design criteria:
- (a) Materials and architectural features similar to those present on the front of the building shall be used on the side or rear facade.
 - (b) Open areas shall be landscaped with lawn, ground cover, ornamental shrubs, and trees, provided that sufficient light penetrates into the space.
- (6) Awnings. Awnings shall be permitted on buildings as follows:
- (a) All awnings must be made from a heavy duty canvass fabric or similar water-proof material, rather than metal, aluminum, plastic, or rigid fiberglass and must carry a minimum 5 year manufacturers warranty. However, awnings that are a permanent part of the building architecture may be constructed of metal, wood, or other traditional building materials where they will add diversity and interest to the facade, and only if the design and materials are consistent with the overall design of the building.
 - (b) All awnings shall be attached directly to the building, rather than supported by columns or poles.
- (7) Color. A limited number of colors shall be utilized on a single structure. Only muted, natural tone or earth tone colors shall be utilized for any applicable structure reviewed under this Chapter. Painting elements such as windows, trim and cornices in white, gray or black may be permitted to complement the main building color and is encouraged.

- (D) Site Design Requirements. The following site design requirements shall apply to all new construction and qualifying expansion projects in the MUB zoning district.
- (1) Active Open Space. All new construction and qualifying expansion projects containing a residential land use component in this MUB zoning district shall provide for a minimum of 5% of active open space on the development site.
 - (a) The open space standards set forth in Section 1135.08 (D) through (H) shall apply.
 - (2) Public Art. All new construction and qualifying expansion projects in this MUB zoning district having a minimum project site size of one acre shall provide a public art piece viewable from the public right-of-way. The Applicant shall collaborate with the City Manager on the design and location of the public art piece. The City Manager shall transmit the public art plan and recommendation to the Planning Commission for final consideration of approval.
 - (3) Outdoor Dining Area Setback. All new non-residential and mixed use construction projects in the MUB zoning district shall provide for a minimum 8' front yard setback for the reservation of outdoor dining space.

§ 1133.08 OUTDOOR DINING REGULATIONS

The regulations set forth in this subsection refer to both outdoor dining areas proposed to be located on private property and sidewalk dining areas proposed to be located within the public right-of-way in the MUB zoning district:

- (A) The Planning and Zoning Commission shall approve all locations and dimensions for outdoor dining areas proposed for placement in either the public right-of-way or those dining areas proposed to be located on public property. Upon approval, the City Manager shall issue an outdoor dining permit to the Applicant.
- (B) All outdoor furniture and table umbrella materials and styles must be approved by the Planning and Zoning Commission
- (C) An unobstructed sidewalk width of five (5) feet must be maintained for outdoor dining areas located within the public right-of-way.
- (D) No permanent structure shall be placed in the public right-of-way.
- (E) Any proposed fencing materials and styles must be approved by the Planning and Zoning Commission.

§ 1133.09 FOOD TRUCK REGULATIONS

The regulation set forth in this Section shall apply to both individual food trucks and food truck parks located in the MUB zoning district, unless stated otherwise. Each operator of a food truck shall obtain a Zoning Permit approval and Certificate of Occupancy, renewable on an annual basis.

- (A) Only food and non-alcoholic beverages shall be sold.
- (B) A food truck shall not operate more than 35 days per calendar year or more than 7 days consecutively. This requirement shall not apply to a food truck park.
- (C) The hours of operation shall be between 7:00 a.m. and 10:00 p.m.
- (D) A food truck shall not impede the safe movement of vehicular and pedestrian traffic, parking lot circulation or access to any public alley or sidewalk.
- (E) A food truck shall not provide amplified music.
- (F) No food truck shall place signs/banners in or alongside the public right-of-way or across roadways unless permitted by this Section. Signs must be permanently affixed to or painted on the food truck or in the case of a mobile retail food establishment, attached directly to the table, awning, canopy or similar item upon or under which sales are directly made; no freestanding signage.
 - (1) Menu Boards. An A-frame menu board is permitted to be placed by the food truck vendor operation and within the vending area. An operation is allowed to display this sign only during hours of operation, otherwise the board shall be removed. The sign shall not exceed 30 inches in width and 48 inches in height.
 - (2) A designated food truck park may be permitted one ground mounted sign consistent with the applicable sign requirements for the MUB zoning district.
- (G) A food truck shall be attended at all times during the permitted hours of operation.
- (H) A food truck shall provide separate and clearly marked receptacles for trash and recycling.
- (I) No food truck shall cause any liquid wastes used in the operation to be discharged.
- (J) Setbacks. The following minimum setbacks shall apply to food truck:
 - (1) The City Manager shall approve the food truck setback distance from the front door of any building and/or outdoor dining area on a case-by-case basis.

- (2) A minimum setback of 50 feet from any other permitted food truck.
 - (3) A minimum setback of 15 feet from any fire hydrant.
 - (4) A minimum setback of 10 feet away from any property line, driveway, sidewalk, utility box, vault or handicapped ramp.
- (K) A food truck and the area serving the operation shall be located upon an asphalt or concrete surface. No food truck shall be located in the public right-of-way, in any driveway aisle, any parking zone, any loading area, or any parking lane.
- (L) Adequate lighting of the entire surface area serving the food truck area shall be provided. The outdoor lighting standards set forth in Section 1139.05 shall apply.
- (M) Exceptions to these Food Truck Regulations.
- (1) Food Trucks for Special Events. Limited duration special events featuring one or more food trucks or other food vendors may have one or more of these standards waived or modified by the City Manager.
 - (2) Mobile food vendors that operate exclusively within public rights of way that do not park or stand at one location, such as an Ice Cream Truck, provided that the vehicle is properly licensed and inspected shall be exempt from these standards.
 - (3) Food Trucks shall be permitted for special events located in any City owned park facility or on public or private school property within the City as approved by the City Manager.

§ 1133.10 UPPER FLOOR RESIDENTIAL DWELLING STANDARDS

Residential dwelling units are only permitted on the second, third or fourth floor of a mixed use structure in this district. The minimum livable square footage for each dwelling unit shall be as follows:

- (A) A studio unit shall have a minimum of 550 square feet of livable space.
- (B) A one bedroom unit shall have a minimum of 650 square feet of livable space.
- (C) A two bedroom unit shall have a minimum of 875 square feet of livable space.
- (D) A three bedroom unit shall have a minimum of 1,100 square feet of livable space.

§ 1133.11 MIXED USE BUSINESS DISTRICT WAIVER PROCEDURES.

- (A) The Planning and Zoning Commission shall have the authority to grant waivers from the provisions and requirements of this Mixed Use Business District Chapter which will not be contrary to the public interest or the intent and purpose of this Chapter or the City Comprehensive Plan, but only where, owing to special conditions pertaining to a specific piece of property, the strict application of provisions to requirements of this Chapter would cause undue or unnecessary hardship based on reasons of safety, topographic conditions, site engineering conditions or other unique conditions that may exist.
 - (1) An MUB waiver request shall not be permitted to modify the permitted or conditional uses as set forth in Sections 1133.02 and 1133.03.
- (B) Financial considerations or aesthetic preferences shall not be considered an “undue or unnecessary hardship.”
- (C) An applicant seeking a waiver under this Section shall submit a written request for the waiver to the Zoning Inspector. Such request shall include a detailed description of the safety, topographic condition, site engineering need or other unique site characteristic along with any supporting documentation and evidence.

Chapter 1135 PUD Planned Unit Development District**§ 1135.01 PURPOSE.**

The purpose of these regulations is to encourage the appropriate development of tracts of land sufficiently large to allow comprehensive Planning and Zoning, and to provide flexibility in the application of certain provisions of this Zoning Code. It is the further purpose of this chapter:

- (A) To produce a comprehensive development equal to or better than that resulting from traditional lot by lot land use development.
- (B) To recognize the problems of population density, distribution and circulation, and to allow a deviation from rigid established patterns of land use, but controlled by defined policies and objectives.
- (C) To permit flexibility of design in the placement and use of buildings and open spaces, circulation facilities and off-street parking areas, and to more efficiently utilize potentials of site characterized by special features of geography, topography, size or shape.
- (D) To obtain creative and coordinated designs harmonious and compatible with surrounding uses.

§ 1135.02 PLAN SUBMISSION.

In any district, the owner of a tract of land comprising not less than 3 acres may submit to the Planning and Zoning Commission a plan for the use and development of all of such tract for uses permitted in such district, or for any uses permitted in any other district allowed hereunder if an underlying zoning district change to such other district is also requested, the procedures stated in Chapter 1109, Zoning Code Amendments, shall be followed. A development of land of less than 3 acres may be accepted by the Planning and Zoning Commission if such land is found to be suitable for a Planned Unit Development by virtue of its unique historical character, topography or other natural features, or by virtue of its qualifying as an isolated problem area.

§ 1135.03 CONDITIONS FOR COMPLIANCE.

It shall be the duty of the Planning and Zoning Commission to investigate and determine that the proposed development plan complies with the following conditions:

- (A) General Intent. The plan is consistent with the intent and purpose of this Zoning Code and the Deer Park Comprehensive Plan.

- (B) **Adjacent Effect.** The property adjacent to the area included in the plan will not be adversely affected.
- (C) **Lot Area Regulations.** The minimum lot area contained in the development, exclusive of the area of dedicated streets and rights of way, will not be less than the lot area required in the district(s) in which the site is located. The number of dwelling units per structure may vary where found to be appropriate.
- (D) **Mixed Use Development.** A plan for a mixture of uses (residential, commercial, office, institutional, etc.) may be approved if the Planning and Zoning Commission finds that the mixture of uses can be appropriately combined within the design of the plan and that the combination of uses is consistent with the Comprehensive Plan. The applicant must identify the use of each area and the zoning district designated (i.e. R-1, MUB, PO, etc.) that is the governing underlying zoning district. No use may be permitted that is not identified as a permitted use within the zoning classification for the land use being requested.
- (E) **Off-Street Parking.** There are to be provided off-street parking facilities in accordance with the requirements of the Off-Street Parking and Loading Regulations chapter.
- (F) **Recreation.** Indoor and/or outdoor recreation areas and facilities are provided for and commensurate with the needs generated by the project.

§ 1135.04 DEVELOPMENT PROCEDURES.

- (A) **Ownership and/or Control.** The tract or tracts of land included in a proposed Planned Unit Development must be in one ownership or control, or the subject of a joint application by the owners of all the property included.
- (B) **Professional Design.** The applicant for all proposed Planned Unit Developments shall certify that the talents of the following professionals shall be utilized in the planning process for the development:
 - (1) An architect licensed by any state;
 - (2) A landscape architect licensed in the State of Ohio, or a certified urban planner holding an AICP designation; and
 - (3) A registered civil engineer and land surveyor, licensed by the State of Ohio. One of the professional consultants chosen by the applicant shall be designated to be responsible for conferring with the Planning and Zoning Commission with respect to the concept and details of the plan. The selection of the professional coordinator of the design team will not limit the owner or the

developer from consulting with City officials or the Planning and Zoning Commission.

- (C) District Regulations. The requirements as set forth in the underlying zoning district regulations shall prevail except as modified in this chapter or by the Planning and Zoning Commission. This chapter sets forth the requirements for Planned Unit Developments and allows for the creation of a Planned Unit Development district overlying the basic underlying zoning district or districts in the tract involved in the Planned Unit Development.
- (D) Zone Changes. The creation of a Planned Unit Development shall be considered a zone change regardless of whether the underlying zoning classification is changed or not. The developer may request a change of the underlying zoning district in concurrence with the procedure set forth in this Section, Preliminary Approval. The public hearings on such zoning change shall be held at the same time as the public hearings required by Chapter 1109. No such change in the underlying zoning district or districts requested by a developer or his or her representative shall take effect until final approval of the preliminary plan is granted by City Council.
- (E) Zoning or Building Permits. No zoning or building permits may be issued until the final development plan is approved. Whenever such a Planned Unit Development permit is granted, the Zoning District Map shall be clearly marked to indicate that all tracts in any Planned Unit Development are in a Planned Unit Development district overlying the basic zoning district.

§ 1135.05 DEVELOPMENT CRITERIA.

The following development criteria are established to guide and control the planning, development and use of land in a Planned Unit Development:

- (A) Building and Use Arrangements. The design and development criteria set forth in this section are intended to provide considerable latitude and freedom in order to encourage variety in the arrangement of uses and of the location, bulk and shape of buildings, open space and landscape features. Buildings and uses shall be arranged, designed or located in order to screen and preserve uses within and nearby the Planned Unit Development from adverse effects of uses within or nearby the Planned Unit Development. The buildings and uses may be arranged in various groups, courts, sequences or clusters with open spaces organized and related to the buildings in order to provide privacy where applicable, and to form a unified composition of buildings and space, and to maximize the peace and tranquility of the residential occupants of the Planned Unit Development and the nearby area, where applicable. The following design standards shall be met in the Planned Unit Development area:

- (1) That the adjoining property be protected from loss of light, air and view because of the proximity or the bulk or shape of a building or structure within the Planned Unit Development.
 - (2) That through skillful design, in Planned Unit Developments containing residential units, the usability and accessibility of open spaces on adjoining lots be obtained, while privacy be assured within such adjoining dwellings.
 - (3) That required yards and setbacks should not be excessive so as to prevent the reasonable development of open land for landscape features, recreation or other private or passive use; and
 - (4) That the latitude in design should also apply to the planning of landscape features such as walls, fences, hedges and other features to create a variety of common open spaces and private areas.
- (B) Local Circulation System. The vehicular circulation system and parking facilities shall be designed to fully accommodate vehicular traffic with safety and efficiency without allowing the same to dominate and destroy the form of the area. Driveways for group developments and local streets shall be connected to major arterial and collector streets at locations where the traffic can be controlled and operated effectively with minimum interference with the capacity of the major arterial and collector streets. The amount of traffic generated by commercial uses passing through residential areas shall be minimized.
- (C) Topography and Site Appearance. It is a requirement of this Zoning Code that such developments shall be designed to take advantage of the topography of the land in order to utilize the natural contours, to economize on the construction of utilities to reduce the amount of grading and to maximize the conservation of trees and topsoil. The natural features and other distinctive characteristics of the site shall be integrated into the plan to create functional variations in the arrangement of buildings, open spaces and site features.
- (D) Utility Services. Utility services in a Planned Unit Development area shall be entirely underground.
- (E) Private Land. In the planning of residential developments in a variety of groups or clusters, private land should be provided adjacent to the units for the private outdoor use of the occupants.
- (F) Common Land. The common land shall be readily accessible and of such condition, size, shape and form of ownership as to be usable for recreation or appropriate for undeveloped open spaces. The integrity of the common land shall be guaranteed from further division or other changes through deed restrictions or declarations of covenants

by explicit prohibition of other than intended uses. Such deed restrictions and covenants shall be exempt from further amendment except upon prior approval by Council.

- (G) Unified Boundary. The design at the development area boundary shall be unified with the adjoining development. Within the development area, extensive parking areas, commercial areas and other features likely to have an adverse effect on the surrounding property shall be screened against viewing from first stories outside the development. Screening shall also be provided against adverse views from the development against lights, noise or other undesirable conditions on the surrounding areas outside the development.
- (H) Surrounding Area. The Planned Unit Development shall be planned and developed to harmonize with existing and proposed development in the area adjacent to and surrounding the project site and shall be consistent with the Comprehensive Plan.

§ 1135.06 AREA AND DENSITY REGULATIONS.

The various area, yard and height regulations of a Planned Unit Development are defined and set forth as follows:

- (A) Planned Unit Development Area Qualification. The minimum area to qualify as a Planned Unit Development area shall not be less than three contiguous acres. A parcel or parcels of land with less acreage may be considered for planned development when it is demonstrated that such smaller area has a unique feature of geography, topography or other development aspect which is determined to be appropriate for such district designation. However, contiguous property of less than three acres may be added to a previously established Planned Unit Development without any demonstrated basis.
- (B) Project Area. The project area that will be used to determine the permitted number of units shall include all of the area within the Planned Unit Development minus land located in an easement, land located within a floodway, land allocated for public right-of-ways, and any additional land which the Planning and Zoning Commission sees as being undevelopable.
- (C) Development Densities. The maximum density of a development shall be determined by dividing the project area, as defined in division (b) of this section, by the minimum lot area required by the underlying zoning. Where the Planned Unit Development lies over multiple zoning districts, the number of allowable units must be calculated separately for each of the separate zoning districts.
- (D) Lot Area. When a developer demonstrates that it is necessary to use lots that contain less than the minimum lot area or have less than the minimum lot width required in the underlying zoning district, because either one of the following conditions exist:

- (1) Such use will create a distinctive residential setting that is in harmony with the character of the surrounding developments; or
 - (2) The land to be developed is of a unique or unusual geographical or topographical condition that restricts the use of lots meeting the minimum lot area or lot width requirement; then the Planning and Zoning Commission may approve such uses.
- (E) Standards for an Increase in Density. The Planning and Zoning Commission may recommend authorization of an increase in the density of a Planned Unit Development under the following standards:
- (1) For undeveloped green space above the minimum amount required, a maximum increase of 5%.
 - (2) For improved green space or recreational space above the minimum amount required, a maximum increase of 10%.
 - (3) For distinctiveness and excellence in siting, design and landscaping, a maximum increase of 10%.
 - (4) At the discretion of the Planning and Zoning Commission and based upon the conditions set forth in this subsection, project density may be increased up to the a maximum amount of 25% of the underlying maximum density figure.
- (F) Controls on Density Increase. If the Planning and Zoning Commission finds that any of the following conditions would be created by an increase in density permitted in division (E) of this Chapter, it may then use either of the provisions listed in subsection (G) of this section:
- (1) Inconvenient or unsafe access to the Planned Unit Development;
 - (2) Traffic congestion in the streets which adjoin the Planned Unit Development; or
 - (3) An excessive burden on parks, recreational areas, schools and other public facilities that serve or are proposed to serve the Planned Unit Development.
- (G) The Planning and Zoning Commission may use either of the following provisions in order to control the conditions specified in division (E) of this subsection:
- (1) Prohibit any increase in density; or

- (2) Limit the increase in density by an amount which is sufficient to avoid the creation of any of these conditions.
- (H) Minimum Dwelling Size. No reduction in the minimum dwelling size shall be permitted.

§ 1135.07 PERIPHERAL SETBACKS.

Along the boundary of any Planned Unit Development, each non-residential building shall be set back at least 25 feet from adjoining private property outside the Planned Unit Development. Each residential building shall be set back from adjoining residential buildings outside the Planned Unit Development in accordance with the requirements for that district.

§ 1135.08 REQUIRED OPEN SPACES.

The Planned Unit Development will only be approved if the PUD development plan contains areas to be allocated for green space and recreational space which satisfies the standards governing the usability and quality of such common spaces that are contained below:

- (A) No open area may be accepted as green space and recreational space under the provisions of this Zoning Code unless it meets the following standards:
 - (1) The location, shape, size and character of the green spaces and recreational spaces shall be suitable for the Planned Unit Development.
- (B) Recreational space shall be land that is designed for active recreational uses such as tennis courts, playgrounds, hike and bike trails, and swimming pools and shall comprise at least 5% of the total project area. The uses authorized for the recreational space shall be appropriate to the scale and character of the Planned Unit Development, considering the size, density, expected population, including ages and number, topography and the number and types of dwellings or uses to be provided. If the underlying zoning district is Mixed Use Business, the more restrictive open space requirements set forth in this Section shall apply.
- (C) In addition to the recreational space, a minimum of 10% of the total project area shall be dedicated as green space. Such green space shall be suitably improved for its intended use, but any green space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the green space shall be appropriate to the uses which are authorized for the green space and shall conserve and enhance the amenities of the green space, having regard to its topography and unimproved condition. If the underlying zoning district is Mixed Use Business, the more restrictive open space requirements set forth in this Section shall apply.

- (D) If the final development plan provides for buildings, structures or improvements in the green space and recreational space, the developer shall provide a bond of 100% of the City Engineer's estimate of the cost of those improvements so that the buildings, structures and improvements will be completed. The Planning and Zoning Commission shall release the bond or other assurance when the buildings, structures or improvements have been completed according to the development plan.
- (E) All land shown on the final development plan as green space and recreational space shall be conveyed under one of the following options:
 - (1) It may be conveyed to a public agency that will agree to maintain the green space and recreational space and any buildings, structures or improvements that have been placed on it.
 - (2) It may be conveyed to trustees provided in an indenture establishing an association or similar organization for the maintenance of the planned residential development. The green space and recreational space shall be conveyed to the trustees subject to covenants to be approved by the Planning and Zoning Commission which restrict the green space and recreational space to the uses or extent of development specified on the final development plan and which provide for the maintenance of the green space and recreational space in a manner which assures its continuing use for its intended purpose.
- (F) No green space and recreational space may be put to any use not specified in the final development plan unless the final development plan has been amended to permit that use. However, no change of use so authorized may be considered as a waiver of any of the covenants limiting the uses of green space and recreational space and all rights to enforce these covenants are expressly reserved.
- (G) If the green space and recreational space is not conveyed to a public agency, either one of the following methods of enforcement may be provided.
 - (1) The legal right to develop the green space and recreational space for those uses not specified in the final development plan may be conveyed to a public agency.
 - (2) The restrictions governing the use, improvement and maintenance of the green space and recreational space may be stated as conditions to the conveyance of the green space and recreational space, the fee title to the green space and recreational space to vest in a public agency, at its discretion, in the event of a substantial default in the stated conditions.
 - (3) The covenants governing the use, improvement or maintenance of the green space and recreational space may authorize a public agency to enforce their provisions.

- (H) The Zoning Inspector shall not approve the zoning compliance on the building permit for any building or structure shown on the final development plan for any stage of the Planned Unit Development unless the green space and recreational space allocated to that stage have been conveyed under one of the options provide in division (E) of this section.

§ 1135.09 PLANNED UNIT DEVELOPMENT REVIEW PROCEDURE.

Whenever such a planned unit development application is subject to the Subdivision Regulations, the procedures of the Subdivision Regulations shall also be complied with. Whenever a developer desires to create a Planned Unit Development to change the underlying zoning district or districts in a Planned Unit Development, the requirements of this Zoning Code concerning the procedure for such a change shall be complied with, except as modified in this chapter.

§ 1135.10 APPLICATION AND APPROVAL REVIEW STAGES.

A letter of intent for a Planned Unit Development shall be submitted to the Planning and Zoning Commission by the owner of the affected properties or his or her authorized agent. There shall be a three-stage review process for Planned Unit Developments consisting of Concept Plan (Stage One); Preliminary Development Plan (Stage Two); and Final Development Plan (Stage Three).

§ 1135.11 COUNCIL ACTION.

Council, may, on its own initiative or upon the recommendation of the Planning and Zoning Commission, establish a Planned Unit Development. Nothing contained within this chapter shall preclude Council from modifying any regulations, standards or criteria prescribed by these Planned Unit Development standards or any other Zoning Code section if Council determines the regulation, standard or criterion is inapplicable because of the unique condition of the development area. Any modifications or deviations of any requirement of this Zoning Code shall be considered an individual “PUD Waiver” and shall be listed separately in the PUD Ordinance. A brief explanation of the nature of each PUD Waiver and the justification for granting each waiver shall be provided in the Ordinance.

§ 1135.12 CONCEPT PLAN (STAGE ONE).

- (A) The owner, or his or her authorized agent, shall submit the following information to the Planning and Zoning Commission:
- (1) A schematic concept plan drawing, drawn at a scale of not less than one inch equals 200 feet (1"=200'), showing the general relationship contemplated between all public and private uses and existing physical features.

- (2) A written statement setting forth the source of water supply, method of sewage disposal, means of drainage, proposed number of dwellings, types of dwellings, public and private access, height of structures, lighting, landscaped areas, areas to be devoted to various uses and green space and recreational space, and population densities per net acre and gross acre contemplated by the applicant.
- (B) The developer shall meet with the Planning and Zoning Commission and any members of the City or County the Zoning Inspector deems necessary to determine whether the requirements of this Section have been complied with. The applicant must indicate his or her professional design team, as outlined in this Section, and also designate who is to be his or her professional coordinator.
- (C) The professional coordinator shall be responsible for presenting the developer's plan in all the broad professional aspects to the Planning and Zoning Commission. If satisfactory agreement is reached, the applicant may proceed to prepare data for Stage Two, Preliminary Approval.

§ 1135.13 PRELIMINARY DEVELOPMENT PLAN (STAGE TWO).

- (A) Preliminary Action by Planning and Zoning Commission. An application for a Planned Unit Development permit shall be considered by the Planning and Zoning Commission. A public hearing shall be held on each such application. After such hearing, the Commission shall determine whether the proposal conforms to the criteria set forth in this Chapter and shall issue a recommendation to Council and may recommend the inclusion of such conditions of approval as are in its judgment necessary to ensure conformity to such criteria and regulations. In so doing, the Commission may, in its description, recommend submission of the final development plan in stages, corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the preliminary development plan and stage development schedule.
- (B) Council Action. After the Planning and Zoning Commission has issued a recommendation to Council, the application will be referred to City Council. Council will hold a public hearing. After this hearing, and if approved by Council, the Planned Unit Development permit shall be issued by the Zoning Enforcement Officer.

§ 1135.14 FINAL DEVELOPMENT PLAN (STAGE THREE).

- (A) Generally. Within one year after the approval or modified approval of a preliminary development plan, the applicant shall file with the Planning and Zoning Commission a final construction plan for the entire development, or when submission in stages has been authorized pursuant to this Chapter for the first unit of the development. The final plan shall conform in all respects to the approved preliminary development plan.

The final plan shall include all information included in the preliminary plan plus the following:

- (1) The location and size of water, sewerage and drainage facilities;
 - (2) Detailed building and landscaping plans and elevations;
 - (3) The character and location of signs;
 - (4) Plans for street improvements and grading or earth moving plans. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development. Copies of legal documents required by the Commission for the dedication or reservation of public facilities, or for the creation of a nonprofit homes association, shall also be submitted.
 - (5) Any other applicable information as required in a set of construction drawings as provided for in the Subdivision Regulations when the subdivision of multiple lots is proposed.
 - (6) When the final plan involves the development of a single structure on one parcel, any other applicable standards and requirements as set forth in the Site Plan Section shall apply.
- (B) Final Action by Planning and Zoning Commission (Stage Three). Upon receipt of the final development plan, the Planning and Zoning Commission shall submit the plan to the City Engineer and the City Manager for reports regarding water, sewerage and drainage, and street improvement plans. The Commission shall examine such plan and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved Planned Unit Development permit, or require such changes in the proposed development. Or impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards. In so doing, the Commission may permit the applicant to revise the plan and resubmit it as a final development plan within thirty (30) days of such action.

§ 1135.15 PUD PERMIT CRITERIA.

A Planned Unit Development permit may be granted by Council only if it is found that the development conforms to all of the following criteria provided for in this Chapter:

- (A) That the location, design, size and uses are consistent with the Deer Park Zoning Map, and with other applicable plans or development plans adopted by the Planning and Zoning Commission or Council, or ordinance adopted by Council.

- (B) That the location, design and size are such that the development can be well integrated with its surroundings.
- (C) That the location, design and size are such that traffic generated by the development can be accommodated safely and without congestion on existing or planned arterial or collector streets.
- (D) That the location, design, size and uses are such that residents will be adequately served by existing or planned facilities and services, and the total development will result in an attractive, healthful, efficient and stable environment for living.

§ 1135.16 LIMITATION ON RE-SUBMISSION.

Whenever an application for a Planned Unit Development has been denied, no application for the same area, or any portion thereof, shall be filed by the same applicant within six (6) months after the date of denial.

§ 1135.17 COMPLIANCE WITH APPROVED PLAN.

The applicant shall agree in writing to be bound, for himself or herself and his or her successors in interest, by the conditions prescribed for approval of a development. The approved final plan and stage development schedule shall control the issuance of all building permits and shall restrict the nature, location and design of all uses. Minor changes in an approved preliminary or final development plan may be approved by the Planning and Zoning Commission if such changes are consistent with the purposes and general character of the development plan. All other modifications, including extensions or revisions of the stage development schedule, shall be processed in the same manner as the original application and shall be subject to the same procedural requirements.

§ 1135.18 PUD PERMIT REVOCATION.

- (A) In the event of failure to comply with the approved plan or any prescribed condition of approval, including failure to comply with the stage development schedule, Council, acting upon the recommendation of the Planning and Zoning Commission, after public notice and hearing, may revoke a Planned Unit Development permit. The determination of Council shall become final thirty (30) days after the date of such decision.
- (b) In the event of failure to begin construction of a Planned Unit Development within one (1) year of granting the Planned Unit Development permit, Council, acting upon the recommendation of the Planning and Zoning Commission, after public hearing, may revoke the permit.
- (c) If a Planned Unit Development permit is revoked, as provided for in divisions (a) and (b) above, the zoning of the tract involved in the Planned Unit Development shall revert, if necessary, to the zoning in effect prior to the original granting of the permit.



Chapter 1137 Yard, Lot Coverage, And Height Restrictions

§ 1137.01 YARD, LOT COVERAGE, AND HEIGHT RESTRICTIONS TABLE.

The following for each district shall be the required minimum setbacks and lot frontage, the maximum building height, and lot coverage. Terms are defined in Chapter 1157.

Table 1

YARD, LOT COVERAGE, AND HEIGHT RESTRICTIONS								
District	Min. Lot Area (Square Feet)	Max. Housing Density (Per Acre)	Minimum Yard Setbacks (Feet)			Min. Lot Width (Feet)	Max. Height (Feet)	Max. Lot Coverage
			Front ²	Rear	Side			
R-1 Single-Family	8,000	4	30	20	5	50	35	30%
R-2 Single-Family	8,000	3.5	30	20	10	65	35	30%
PR Planned Residential	3,000 per unit	12.0	5	20	10	80	45 (3 Stories)	60%
PO Planned Office	20,000	None	35	5	5	None	105 (7 Stories)	75%
RNC Residential - Nursing Care	20,000	12.0	35	20	20	None	45 (3 Stories)	75%
MUB Mixed-Use Business	5,000	None	None	None	None	None	60 (4stories)	85%

Notes:

(1) Side yard and rear yard setbacks shown in this chart may be modified by the bufferyard requirements set forth in Chapter 1143.

(2) Minimum required front yard setbacks in any residential zoning district may be reduced to conform to existing neighborhood characteristics when adjacent land has been developed with smaller front setbacks. Specifically, when a parcel is proposed to be developed or redeveloped and existing principle structures on either side of the subject property have setbacks that are lesser distances than would be normally required, then the applicable setback for the subject property may be reduced by an amount that would not exceed the average of those existing structures within 1000 feet of the subject property (on the same side of the street). This determination shall be made by the Zoning Inspector without the need for a variance.

(3) New construction projects in the MUB zoning district shall provide for a minimum 8' front yard setback for the reservation of outdoor dining space.

§ 1137.02 SUPPLEMENTAL YARD AND HEIGHT REGULATIONS.

In addition to all yard regulations specified in other sections of this Zoning Code, the provisions included in this section shall be used for interpretation and clarification.

- (A) *Yard setback requirements for corner buildings.* On a corner lot in any district, the main building and any accessory structures shall be required to have the same setback distance from all street right-of-way lines as required for the front yard in the district in which such structures are located. The remaining yards shall be considered side yards. (See the illustration below)



Illustration of the determination and location of yard areas for a typical corner lot.

- (B) *Visibility at intersections.* On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2½ feet and 10 feet above the center line grades of the intersecting streets in the area bounded by the right-of-way of such corner lots and a line joining points along the right-of-way 25 feet from the point of intersection.
- (C) *Accessory structures.* Side yard and rear yard setbacks for accessory structures is provided for in Chapter 1147.

TITLE SEVEN ZONING REGULATIONS**Chapter 1139 Site Plan Review Procedures****§ 1139.01 CONDITIONS FOR SITE PLAN REVIEW**

In order to administer the provisions of this Zoning Code and to evaluate site plans in the interest of the public health, safety and general welfare, this Chapter shall apply to new property development and any collective substantial expansion of existing structures, new or expanded parking lots consisting of the creation of one new parking space or more in any zoning district. The construction of individual single-family dwellings and two-family dwellings (duplexes) shall be exempt from the site plan review requirement. Substantial expansion of existing structures shall be defined based on the criteria established below:

When Existing Structure is....	A Substantial Expansion is....
0 - 1,000 Sq. Ft.	50% or Greater
1,001 - 10,000 Sq. Ft.	40% or Greater
10,001 - 25,000 Sq. Ft.	30% or Greater
25,001 - 50,000 Sq. Ft.	20% or Greater
50,001 Sq. Ft. and larger	10% or Greater

Furthermore, no building shall be erected or structurally altered on any lot or parcel in cases where a site plan review is required, except in accordance with the regulations of this section and all other applicable sections within this Zoning Code and an approved site plan. No zoning permit shall be issued prior to the approval of a site plan.

§ 1139.02 PROCEDURE FOR SITE PLAN REVIEW.

- (A) Formal submission and approval of a site plan is required before any zoning permit may be issued. Formal submission and approval of a site plan includes following the review procedures and submission requirements defined herein. Notwithstanding these requirements, however, at any time prior to the formal submission and review of a site plan, an applicant may at his or her option, submit a sketch site plan for informal review and comment. The purpose of such a sketch site plan is to provide an opportunity to conceptually discuss a proposed development and to provide general guidance to assist in the preparation of a formal site plan. A sketch site plan need not include all items required for a formal site plan application and informal review of the site plan need not include the notifications required under this section.
- (B) An applicant for formal site plan approval shall file twelve copies of a plan with the Zoning Inspector along with other required documents and an application fee. For

developments also requiring conditional use approval, the procedure established in Chapter 1149 shall be followed. The Planning and Zoning Commission may concurrently address the issue of site plan approval and conditional use approval.

- (C) After reviewing an application for formal site plan approval for completeness and determining that the application and site plan is complete, the Zoning Inspector shall transmit copies of the site plan to individual departments and agencies. If all information required is not provided, the Zoning Inspector shall promptly notify the applicant of the items needed. Within 30 days following the determination that the application is complete, one of the following actions shall be taken:
- (1) Approval of the site plan based upon a determination that the proposed plan will constitute a suitable development and the plan meets the standards set forth in this Zoning Code.
 - (2) Disapproval of the site plan based upon a determination that the proposed project does not meet the standards for review set forth in all applicable Chapters of this zoning ordinance.
 - (3) Approval of the site plan subject to any conditions, modifications, and restrictions as required to guaranty that the project meets the standards for review.
 - (4) Table the site plan application for a period not to exceed ninety (90) days to provide the applicant additional time to address one or more deficiencies identified in the site plan application.
- (D) If the site plan is disapproved, the specific basis for such disapproval shall be provided, along with a clear description of how the site plan could be modified to be approved. Appeals from Commission decisions may be made in the manner specified in Chapter 1105.
- (E) *Submission requirements.* A site plan shall be prepared at a scale of one inch equals 20 feet (developments more than five acres may be drawn at a scale of one inch equals 50 feet), on standard 24-inch x 36-inch sheets with continuation on 8½-inch x 11-inch sheets as necessary for narrative. A site plan shall, at a minimum, include all data, details, and supporting information as outlined in this Chapter. A site plan review fee pursuant to the fee schedule adopted by City Council shall be required to defray the expenses associated with the public review of the plans, including the need to retain a registered professional engineer, architect, landscape architect, or other professional consultant to advise the city on any or all aspects of the site plan.

§ 1139.03 STANDARDS FOR SITE PLAN REVIEW.

- (A) *Standards for review.* Site plans shall be reviewed in accordance to the following criteria:
- (1) *Traffic.* Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
 - (2) *Parking.* Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment; adequate parking, adequate lighting, and internal traffic control.
 - (3) *Services.* Reasonable demands placed on municipal services and infrastructure.
 - (4) *Pollution control.* Adequacy of methods for sewage and refuse disposal and the protection from pollution of both surface water and groundwater. This includes controlling soil erosion both during and after construction.
 - (5) *Nuisances.* Protection of abutting properties from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, storm water runoff, and the like. The performance standards set forth in Chapter 1153 may apply to the site plan application.
 - (6) *Existing vegetation.* Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
 - (7) *Amenities.* The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside planting, and the retention of open space.
 - (8) *Community character.* The building setbacks, area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding landscape.

§ 1139.04 SITE PLAN APPLICATION CONTENTS.

- (A) *Site plan application contents.* A site plan shall, at a minimum, include the following data, details, and supporting plans. All site plans shall be prepared by an Ohio registered professional civil engineer. Items required for submission include:
- (1) Name of the project, boundaries, and location maps showing the site's location in the city, date, north arrow, and scale of the plan.

- (2) Name and address of the owner of record, developer, and seal of the engineer who prepared the site plan.
- (3) Names and addresses of all owners of record of abutting parcels and those within 300 feet of the property line.
- (4) All existing lot lines, easements, and rights-of-way. Include area of subject parcel to be developed in both acres and square feet.
- (5) Indicate the existing land use and current zoning classification of all abutting parcels.
- (6) The location and use of all existing and proposed buildings and structures within the development including building footprints, overhangs, site coverage, building-ground contact, and area. A brief description of the use of the site shall be included with an estimate of the number of employees.
- (7) All dimensions of height and floor area and showing all exterior entrances.
- (8) Illustrations of internal traffic movement, ingress and egress, and the location of all present and proposed public and private drives, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, walls, and fences.
- (9) Illustrated drawings identifying the location, height, intensity, and bulb type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures. A photometric analysis of the proposed development site shall be submitted as part of the site plan application to determine conformance with the illumination standards set forth in Chapter 1141.
- (10) Illustrated drawings identifying the location, height, size, materials, and design of all proposed signage.
- (11) The location of all present and proposed utility systems, including sewage systems, water supply system, telephone, cable and electrical systems, storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.
- (12) Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- (13) Existing and proposed topography at a two foot contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any

portion of the parcel is within the 100-year floodplain, the area will be shown and base flood elevations given.

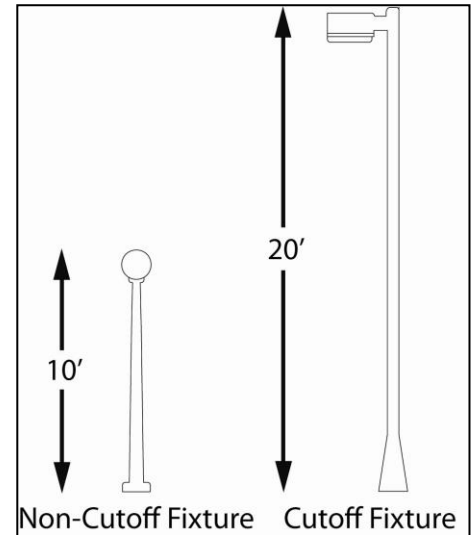
- (14) A landscape plan prepared by a landscape architect registered in the State of Ohio showing all existing natural land features, trees, forest cover and water resources, and all proposed changes to these features including size and type of plant material. Water resources will include ponds, lakes, streams, wetlands, floodplains, and drainage retention areas. The landscaping regulations found in Chapter 1143 shall apply. The landscape plan shall be provided on a separate plan sheet.
- (15) For new construction or alterations to any existing building, a table containing the following information must be included:
 - (a) Area of building to be used for a particular land use such as retail operation, office, storage, and the like, and maximum number of employees.
 - (b) Maximum seating capacity, where applicable.
 - (c) Number of parking spaces existing and required for the intended use.

§ 1139.05 OUTDOOR LIGHTING STANDARDS.

The outdoor lighting guidelines shall apply to all new projects and qualified expansion projects subject to this site plan review process.

- (A) Lighting must be placed and shielded so as to direct the light onto the site and away from adjoining properties. The lighting source shall not be directly visible from adjoining properties. Floodlights, wall pack units, other types of unshielded lights, and lights where the lens is visible outside of the light fixture shall be prohibited. A decorative light pole and fixture utilizing a traditional design style approved by the Planning and Zoning Commission must be utilized for all lighting not affixed to a structure.
- (B) Illumination Standards. Sidewalks and parking areas shall be properly lighted to facilitate the safe movement of pedestrians and vehicles and provide a secure environment. In parking areas, the light intensity shall average a minimum of 0.5 foot candles, measured five (5) feet above the surface. In pedestrian areas, the light intensity shall average a minimum of 2.0 foot candles, measured five (5) feet above the surface. Lighting levels shall not exceed 0.5 foot-candles at any common property line with property zoned or used for residential uses.

- (C) Height. All freestanding light poles and fixtures shall not exceed ten (10) feet in height for non-cutoff lights and twenty (20) feet for cutoff style lights.
- (D) Placement. Any freestanding light pole and fixture shall be placed a minimum of ten (10) feet from any property line when proposed to be located adjacent to a residential land use. There shall be no setback requirements for any freestanding light poles and fixtures when abutting any non-residential land use.



§ 1139.06 ACCESS CONTROL REQUIREMENTS.

General standards for parking areas, circulation, and access shall be incorporated as part of the site plan. These standards are found in Chapter 1141. As part of the site plan review process, access shall be reviewed relative to the distance from other drive approaches and from roadway intersections. The preferred method of providing access to parcels is to minimize or eliminate driveways by using service roads, rear access roads, or shared driveways. The Planning and Zoning Commission may, as part of the site plan review process, require that existing driveways be moved, combined, re-aligned, or eliminated to reduce the potential for accidents.

- (A) *Conditional approval of driveways.* As part of the site plan review process, the Planning and Zoning Commission may approve a site plan with a specific driveway location with the condition that an agreement be first entered into between the property owner and the city, requiring that if a service road is constructed in the future, or if the opportunity for a shared driveway should present itself with development of adjacent property, one or more approved driveways shall be closed and measurements taken to utilize such service road or shared drive. Approval of driveways may also include restrictions on turning movements, locations, or other requirements to ensure safe and efficient traffic movement.
- (B) *Construction and use of service roads.* When a service road is required, such improvement shall be constructed by the developer of the involved property before any occupancy or use of the parcel or structure is permitted. When a service road is provided, all access to an adjacent property shall use that service road and no direct access to the main thoroughfare shall be provided.

§ 1139.07 TRAFFIC IMPACT STUDY.

A traffic impact study shall be a requirement for site plan review if the expected trip generation of the land use is 100 or more cars per hour as identified in the Institute of Traffic Engineers (ITE) Manual. A traffic impact study shall be prepared by a qualified professional engineer registered in the State of Ohio at the developer's expense. The traffic impact study shall investigate the feasibility and benefits of improvements such as signals, turn lanes, driveway movement limitations, and other relevant information to the site to protect the safety of the traveling public. The traffic impact study shall include the following elements:

- (A) A description of the site and study area.
- (B) Anticipated development of adjacent parcels.
- (C) Trip generation and distribution, including a description of all assumptions used to generate findings of trip distribution.
- (D) Modal split, if applicable.
- (E) Traffic assignment resulting from the development.
- (F) Projected future traffic volumes.
- (G) An assessment of the impact that would result from driveway alternatives.
- (H) Recommendations for site access and transportation improvements needed to maintain traffic flow within and past the site at an acceptable and safe level of service.
- (I) An evaluation of the effects the proposed development will have on the level of service and roadway capacity.

§ 1139.08 CONFORMITY TO AN APPROVED SITE PLAN

Property subject to site plan approval must be developed in strict compliance with the approved site plan, inclusive of any amendments, which have received the approval of the Planning and Zoning Commission.

- (A) If construction and development does not conform with the approved site plan, the approval of the site plan shall be revoked by the Zoning Inspector by written notice of the revocation being posted upon the premises involved, and mailed to the owner at his last known address. Upon revocation of this approval, all construction activities shall cease upon the site until the time the violation has been corrected or the Planning and Zoning Commission has, upon a proper site plan application being filed by the owner,

approved a modification to the site plan to coincide with the owner's construction, or altered plans for construction to be in compliance with the criteria contained in the site plan approval provisions and with the spirit, purpose, and intent of this Zoning Code.

- (B) Approval of the site plan shall be valid for a period of one (1) year beginning from the date of Planning and Zoning Commission approval. If a building permit has not been obtained and substantial on-site development actually commenced within one (1) year, the site plan approval shall become void and a new application for site plan approval shall be required and new approval obtained before any construction or site preparation work is commenced upon the site.
- (C) *Enforcement.* The city shall require the posting of a surety bond or other similar performance guarantee to ensure that required infrastructure improvements within the public right-of-way are completed in the event that the project is abandoned. The city may suspend the zoning permit when work is not performed as required by an approved site plan.

§ 1139.09 AMENDMENT TO AN APPROVED SITE PLAN

- (A) Minor changes to approved final plans may be approved by the Zoning Inspector, provided such changes comply with all applicable requirements of this Zoning Code and all other federal, state, county or township laws and regulations.
- (B) Major changes must be submitted to the Planning and Zoning Commission for review in the same manner as the original application was submitted or reviewed. Major changes include:
 - (1) Increases in the scope or density of land use, land area, or building size;
 - (2) The addition of uses and/or buildings not authorized by the original approval;
 - (3) The rearrangement of lot lines or building locations by more than five (5) feet;
 - (4) Changes in the character or function of access drives;
 - (5) Significant changes in the concept of the development; or
 - (6) Any changes which the Zoning Inspector refuses or fails to approve.

Chapter 1141 Off-Street Parking and Loading Requirements

§ 11.41.01 GENERAL REQUIREMENTS.

No building or structure shall, after the effective date hereof, be erected, structurally altered, or its use changed unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this Chapter.

§ 1141.02 OFF-STREET PARKING DESIGN STANDARDS.

All new off-street parking facilities including entrances, exits, maneuvering areas, and parking spaces consisting of one or more new parking spaces shall be in accordance with the standards and specifications set forth in this Chapter.

§ 1141.03 PARKING SPACE DIMENSIONS.

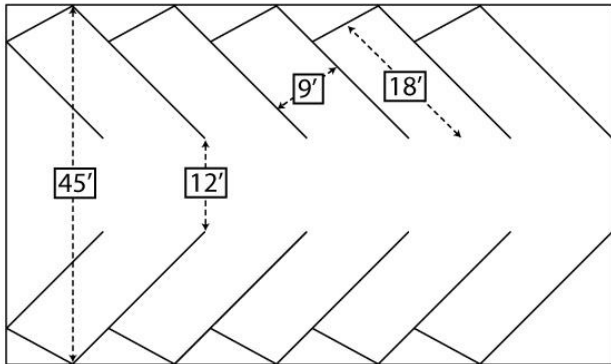
- (A) All new or altered parking lots shall conform to the parking space stall width, length, and aisle width, as set out in Table 1 below. Parking for handicapped spaces shall be provided in accordance with the American Disabilities Act of 1990, and any other applicable building codes.

- (B) Handicapped accessible parking spaces shall be at least 8 feet in width with a 5-foot passenger loading zone. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle. Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

TABLE 1: Parking Dimensions (Also see Parking Stall and Aisle Figures 1 - 4)

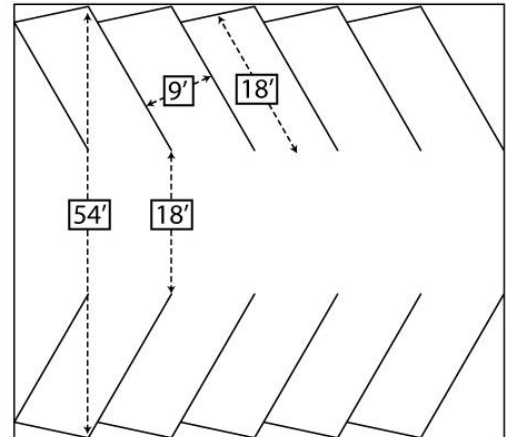
Dimensions	45° Angle	60° Angle	75° Angle	90° Angle
Stall depth to wall	17 feet	18.5 feet	19 feet	18 feet
Stall depth parallel to vehicle	18 feet	18 feet	18 feet	18 feet
Aisle width	12 feet	18 feet	22 feet	25 feet
Stall depth to interlock	15 feet	17 feet	18 feet	18 feet
Stall depth reduction due to interlock	2 feet	1.5 feet	1 foot	0 feet
Stall width parallel to Aisle 1	12.7 feet	10.4 feet	9.3 feet	9 feet
Stall width perpendicular to vehicle	9 feet	9 feet	9 feet	9 feet
Module width wall to wall	45 feet	54 feet	60 feet	61 feet
Module width interlock to interlock	42 feet	51 feet	52 feet	51 feet

Parking Stall and Aisle Illustrations



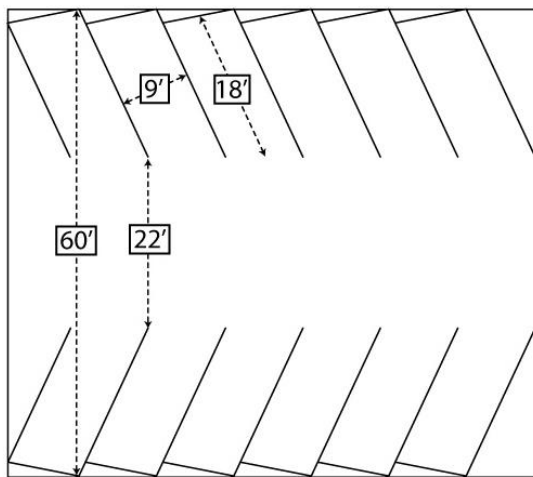
45° Angle Parking

Figure 1: 45 Degree Angle Parking



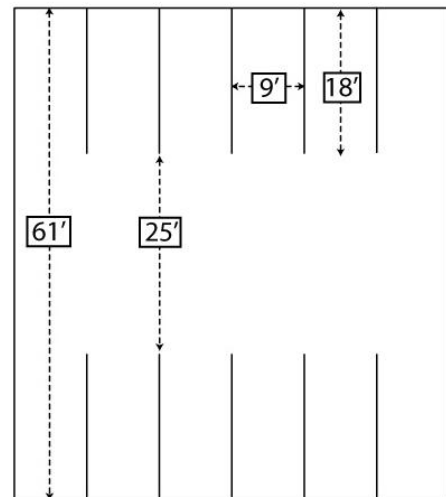
60° Angle Parking

Figure 2: 60 Degree Angle Parking



75° Angle Parking

Figure 3: 75 Degree Angle Parking



90° Angle Parking

Figure 4: 90 Degree Angle Parking

§ 1141.04 EXCEPTIONS TO PARKING AREA DESIGN REQUIREMENTS.

- (A) For bumper overhang deduct 1½ feet from stall depth to wall or three feet from wall to wall for 45-degree and 60-degree parking. The equivalent dimensions for 75-degree and 90-degree parking are two feet and four feet respectively.
- (B) Where natural and/or man-made obstacles, obstructions, or other features such as, but not limited to landscaping, support columns, or grade difference exist, the city may approve a reduction in stall width, stall length, and/or module width as part of the site plan review process. In all instances where a reduction is requested, attention to emergency vehicle access shall be considered and incorporated into the parking lot design.
- (C) New development and expansion projects located within the Planned Multi-Family Residential District, Mixed Use Business District and Planned Office District may request a waiver from the off-street parking space design requirements found in Table 1 when it is shown that adequate off-street parking area is not available to meet the required standards and the existence of other parking arrangements will satisfy the parking space requirements including, but not limited to utilizing the following methods: on-street parking, off-street parking located on an adjacent lot or lot in close proximity to the subject parcel or a shared parking arrangement with another property owner.

§ 1141.05 ACCESS.

In order to assure adequate vehicle access for uses, the following standards shall apply:

- (A) There shall be adequate provision for ingress and egress to all uses. For single- or two-family residential dwellings, driveways shall be a minimum of 9 feet in width. For all other uses, driveways shall be a minimum width of 22 feet and may be located on more than one property unless a cross access easement serving multiple properties is approved as part of the site plan review process. If one-way loop drives are approved as part of the site plan review process, the width of an individual drive shall be at least 11 feet.
- (B) These loading space standards shall apply to the Mixed Use Business District and Planned Office District. A loading space shall have minimum dimensions of not less than 12 feet in width, 50 feet in length, exclusive of driveways, aisle, and other circulation areas, and a height clearance of not less than 15 feet. One off-street loading space shall be provided and maintained on the same lot for every separate occupancy requiring delivery of goods and having a gross floor area of up to 5,000 square feet. One loading space shall be provided for each additional 10,000 square feet or fraction thereof. Projects located in the Mixed Use Business District and Planned Office District may request a waiver from these loading space requirements when it is shown that



adequate lot area is not available for dedicated loading spaces for each use on the property.

- (C) For parcels with continuous frontage under 100 feet, one driveway is permitted for ingress and egress. In the case of a corner lot, one limited access driveway is permitted along each public street frontage area. For parcels with more than 300 feet of frontage, a second driveway may be permitted by the Planning and Zoning Commission following completion of a traffic impact study, as described in Chapter 1139.

§ 1141.06 PARKING LOT SETBACKS.

Off-street parking areas may not be located within any required landscape strip or closer than five feet of any property line.

§ 1141.07 PARKING LOT SCREENING.

All parking areas shall be screened in accordance with Chapter 1143.

§ 1141.08 PAVING.

Parking lot surfacing shall be constructed with an asphaltic or Portland cement binder pavement in order to provide a durable or dust-free surface. Perimeters of parking areas shall be curbed or have other suitable barriers approved by the Planning and Zoning Commission.

§ 1141.09 LIGHTING.

Any parking area which is intended to be used during non-daylight hours shall be illuminated consistent with the lighting standards set forth in Chapter 1143.

§ 1141.10 LOCATION OF PARKING SPACES.

The following regulations shall govern the location of off-street parking spaces and areas:

- (A) All off-street parking spaces required herein for all single- and two-family residential uses shall be located on the same lot as the use which they are intended to serve and located in the front yard area.
- (B) All off-street parking spaces required herein for apartments, townhomes or similar multi-family residential uses shall also be located on the same lot with the building and uses served and shall be located in the side yard or rear yard area.
- (C) All off-street parking spaces required herein for lots located within the Mixed Use Business District and Planned Office District shall be provided on the subject site and

outside any public rights-of-way. Off-street parking in the Mixed Use Business District and Planned Office District shall not be located in any front yard area. Parking may be located on a parcel abutting the parcel served, subject to a recorded reciprocal parking and access easement. This covenant shall run with the life of the project to guarantee that the required parking is maintained and reserved for the subject activity.

§ 1141.11 DRAINAGE.

All parking spaces, together with driveways, aisles, and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways, or onto the public streets. Adequate arrangements shall be made to insure acceptable diversion to an adequate storm water drainage system.

§ 1141.12 VISIBILITY.

Access of driveways for parking areas shall be located in such a way that any vehicle entering or leaving such parking area shall be clearly visible for a reasonable distance by any pedestrian or motorist approaching the access or driveway from a public or private street or alley.

§ 1141.13 MARKING.

All parking areas for five or more spaces shall be marked with paint lines, curbs, or in some other manner approved by the Planning and Zoning Commission and shall be maintained in a clearly visible condition.

§ 1141.14 MAINTENANCE.

All parking areas and facilities, including curb directional markings, disabled symbols, landscaping, signs, striping, and wheel stops, and other facilities, shall be permanently maintained by the property owner in good repair, free of litter and debris, potholes, obstructions, and stored material.

§ 1141.15 PARKING SPACE REQUIREMENTS.

For each use listed below, the following number of off-street parking spaces shall be required either by unit, floor space, or some other number as specified in this section.

(A) *Residential.*

- (1) Single-family: Two for each unit. Fewer spaces may be acceptable at the discretion of the Planning and Zoning Commission.
- (2) Two-family or multiple-family dwellings: Two for each unit.

- (3) Bed and breakfast operations: Two for permanent resident and one for each room that is rented to the public.
- (B) *Commercial.*
- (1) Automobile service stations which also provide repair: One for every two gasoline pumps and two for each service bay.
 - (2) Banks, financial institutions, and similar uses: One for every 200 feet of floor space.
 - (3) Funeral homes or mortuaries: One for every 50 square feet of floor used for public service, and one for each employee and vehicle kept on premises.
 - (4) Hotels and motels: One per each sleeping room, plus one space for every two employees.
 - (5) Offices that are administrative, public, professional, or service oriented: One for every 400 feet of floor space.
 - (6) All types of retail stores: One for every 250 feet of floor space.
 - (7) All types of wholesale stores open to the public: One for every 250 feet of floor space.
 - (8) All types of wholesale distributors not open to the public: One space for every two employees on the largest shift for which the building was designed, and one space for every vehicle used in the business.
- (C) *Institutional.*
- (1) Offices that are for medical or dental services and clinics: One for each employee, and one for every 300 square feet of examination rooms and waiting rooms for patients.
 - (2) Hospitals: One for every three beds, and one for each employee.
 - (3) Nursing homes or Long-Term Care Facilities: One for every three beds, and one for each employee.
 - (4) Adult group homes: One for each person over the age of 16 living on the premises.

- (5) Churches or other places of religious assembly: One for every five seats or seating capacity equivalent.
 - (6) Libraries, museums, and art galleries: One for every 33 square feet of floor area.
- (D) *Schools;*
- (1) Elementary and junior high schools: Two for each classroom and one for every five seats in the auditoriums or assembly halls.
 - (2) High schools: One for every 10 students and one for every teacher and employee.
 - (3) Business, technical or trade schools: One for every two students.
 - (4) Colleges and universities: One for every four students.
 - (5) Child care centers: One for each employee and one for every 400 feet of floor space accessible to the public including child care areas, but not less than six for the building.
- (E) *Industrial.*
- (1) All types of manufacturing, warehouse, and wholesale uses permitted in any industrial district: One for every two employees on the largest shift for which the building is designed, plus one for every motor vehicle used in the business.

§ 1141.16 **PARKING SPACE REDUCTIONS.**

- (A) New development and expansion projects located within the Planned Multi-Family Residential District, Mixed Use Business District and Planned Office District may request a waiver from the minimum off-street parking space requirements required under this Chapter when it is shown that adequate off-street parking area is not available to meet the required standards and the existence of other parking arrangements will satisfy the parking space requirements including, but not limited to utilizing the following methods: on-street parking, and off-street parking located on an adjacent lot or lot in close proximity to the subject parcel.
- (B) Parking Reductions for Shared Use. Off-street parking spaces may serve two (2) or more uses; however, in such case, the total number of such spaces must equal the sum of the spaces required for each separate use, except that the Planning and Zoning Commission may, subject to conditions it deems appropriate, reduce the total number of

parking spaces required by the strict application of this section when the applicant has demonstrated to the Commission's satisfaction that fewer spaces than those required by this section will adequately serve two (2) or more uses by reason of the hourly parking accumulation characteristics of such uses and such reduction will not adversely affect the site or the adjacent area.

- (C) Large Scale Office Project Reduction. The Planning and Zoning Commission may reduce the amount of required parking spaces up to 10 percent when an office building contains more than 20,000 square feet of floor area. The Planning and Zoning Commission shall consider the following factors in determining whether a reduction is appropriate:
- (1) Mix of office uses and floor plan which depicts lower parking demand;
 - (2) Adequacy of public and private parking facilities in the vicinity; and
 - (3) Fully integrated parking is defined by having full accessibility from all portions.

§ 1141.17 MULTIPLE USES ON A SINGLE SITE.

A site or facility proposed for multiple tenants or uses (for example, a building with ground-floor retail shops and second floor residential multi-family units) shall provide the aggregate number of parking spaces required for each separate use.

§ 1141.18 ZONING PERMIT REQUIRED.

Where permitted, development of parking areas or lots for more than one (1) car shall require a zoning permit from the Zoning Inspector. No zoning permit shall be issued until review and approval as part of a required site plan review by the Planning and Zoning Commission. No separate zoning permit shall be required when the parking areas or lots are covered by a zoning permit required for a building or other development.

§ 1141.19 GENERAL INTERPRETATIONS.

In the interpretation of this Chapter, the following rules shall govern:

- (A) Parking spaces for other permitted or conditional uses not listed in this Chapter shall be determined by the Planning and Zoning Commission.
- (B) Fractional numbers shall be increased to the next whole number.



Off-Street Parking and Loading Requirements

- (C) Where floor area calculations are relevant to determine parking space requirements under this Chapter, and except as otherwise provided herein, "usable floor area" shall be employed as the standard.

Chapter 1143 Landscaping & Screening Regulations

§ 1143.01 PURPOSE.

The intent of these landscaping and screening regulations is to promote and protect the public health, safety and welfare through the preservation and protection of the environment. In addition, these regulations are intended to achieve, among others, the following purposes:

- (A) To promote the proper utilization of landscaping and screening as a buffer between certain land uses and to minimize the possibility of nuisances including potential noise, glare and visual clutter of parking and service areas.
- (B) To protect, preserve and promote the aesthetic appeal, character and value of the City of Deer Park’s neighborhoods.
- (C) To establish a minimum standard for the consistent appearance of plant material in the community landscape.
- (D) To soften the appearance of building masses and paved areas and reduce generation of heat and storm water run-off.

§ 1143.02 LANDSCAPING REQUIREMENTS.

Consistent with the objectives established in this section, landscaping plans shall be provided with the new construction or substantial expansion of any principal building according to the following standards for the following districts:

PR	Planned Multi-Family Residential District
RNC	Residential - Nursing Care District
PO	Planned Office District
MUB	Mixed Use Business District

Landscaping plans shall be reviewed as part of the site plan review process.

§ 1143.03 SCREENING OF SERVICE AREAS AND LOADING DOCKS.

For all uses that include areas used for service and outside storage of materials or other commercial product or raw materials, loading and unloading activities, and which are located adjacent to a residential district, such areas shall be screened along the entire rear lot line and side lot lines from the rear lot line to the rear building line to the following minimum standards:

- (A) The width of the screening area shall be a minimum of five feet. Screening shall consist of solid wood privacy fences, hedges, vegetation, or an acceptable combination of these elements provided that screening must be at least seven feet in height.
- (B) Vegetation used for screening shall have a minimum opaqueness of 75% at all times within two years of planting.

§ 1143.04 SCREENING AND LOCATION OF TRASH CONTAINER RECEPTACLES.

Trash containers and/or trash collection areas shall be screened according to the following minimum standards:

- (A) All trash containers, dumpsters and/or trash collection areas shall be located in the rear yard area of the lot and shall be fully screened by means of a minimum six (6) foot high brick wall or solid wooden fence. Such wall or fence materials shall architecturally match those exterior materials found on the principal building.



Illustration depicting a fully screened trash receptacles including the gated portion.

§ 1143.05 SCREENING AND LOCATION OF MECHANICAL EQUIPMENT

All air conditioning units, HVAC systems, exhaust pipes or stacks, and satellite dishes and other telecommunications receiving devices shall be entirely screened from view from the public right of-way and from adjacent properties, by using walls, fences, roof elements, landscaping or a combination of these methods. These screening requirements shall apply to mechanical equipment placed either upon the roof of a structure or ground-mounted. Any mechanical equipment proposed to be ground-mounted shall only be located in the rear yard area and be setback a minimum of five (5) feet from any side or rear property line. These mechanical equipment guidelines shall apply within the Planned Office District, Mixed Use Business District and all institutional uses located within the Residential - Nursing Care District.

§ 1143.06 LANDSCAPING AND SCREENING OF PARKING LOTS.

- (A) *Landscaping on the Interior of Parking Lots.* All new parking spaces and their associated driving aisle shall be defined by landscaped curbed islands. In addition to those parking lot islands, larger parking lots shall provide additional intervening or midway islands to break up the sea of asphalt, to provide shade for cars and pedestrians, and to be areas to absorb run-off. As such, additional interior landscaping of parking lots shall be provided in accordance with the following requirements:
 - (1) For any parking area designed to accommodate twenty (20) or more vehicles, a minimum of 5 percent (5%) of the parking lot shall be planted as landscaped

island areas. Landscaped islands shall be developed and distributed throughout the parking lot to:

- (a) Define major circulation aisles and driving lanes; and
 - (b) Provide visual and climatic relief from broad expanses of pavement.
- (2) Each island shall be a minimum of ten (10) feet in any horizontal dimension;
 - (3) Within the landscaped islands, one (1) shade tree shall be provided for every ten (10) parking spaces. Each tree, at the time of installation, shall have a minimum caliper of 3.0 inches and a clear trunk height of at least six (6) feet. Two 1.75-inch trees may be substituted for each 3.0-inch tree.
 - (4) Shrubs or low, spreading plant materials shall be planted within required landscaped islands in such a way that there is no impairment to the visibility of motorists or pedestrians.
 - (5) Landscaped areas adjacent to the perimeter of the parking area shall not be counted as interior parking lot landscaped areas. For the purpose of this Section the area of a parking lot shall be the total vehicular surface area including circulation aisles.
- (B) *Screening Along Public Streets and Perimeter of Parking Areas.* Whenever parking areas consisting of five (5) spaces or more are located such that the parked cars will be visible from a public street, vegetative screening along the perimeter of any parking area, in addition to the interior landscaping required in subsection (A) above, shall be installed and maintained as provided below:
- (1) All shrubs, berms, walls, and fences shall have a minimum height of three (3) feet.
 - (2) Such landscaping and/or screening areas shall be located parallel to and within five (5) feet of the edge of the parking lot.

§ 1143.07 SCREENING AND BUFFERING WHEN A LOT ABUTS A RESIDENTIAL DISTRICT OR USE.

Screening and buffering along the entire length of a common boundary shall be provided in accordance with the following regulations and shall be approved as part of the site plan review process.

- (A) Screening and buffering shall be required according to the following:
 - (1) When a lot in any non-residential district abuts a residential district;

- (2) When a lot in a PR district or RNC district abuts a residential district; and
 - (3) When a lot in a residential district is devoted to a non-residential conditional use.
- (B) Width of Buffer Yard. Each required buffer yard shall have a minimum width equal to sixteen (16) feet.
- (C) Screening. When the natural vegetation within the required buffer yard does not form a solid, continuous, visual screen or does not have a minimum height of six (6) feet along the entire length of the common boundary, screening shall be installed in compliance with the following:
- (1) Screening Materials. Screening within the buffer yard shall consist of one or more of the following:
 - (a) A dense vegetative planting incorporating trees and/or shrubs of a variety which shall be equally effective in winter and summer with a minimum opaqueness of 50% at the time of planting. Trees and/or shrubs shall be adequately spaced to form a solid, continuous visual screen within three (3) years after the initial installation.
 - (b) Non-living opaque structures such as a solid brick or stone wall or a solid wood fence that is compatible with the principal structure.
 - (c) A fence with openings through which light and air may pass together with a landscaped area at least ten (10) feet wide. A chain link fence shall not be permitted.
 - (d) A landscaped mound or berm at least five (5) feet wide, with no more than a 3:1 slope.
 - (2) Location. The location of the wall, fence, or vegetation shall be placed within the buffer yard to maximize the screening effect, as determined by the Planning and Zoning Commission.
 - (3) Height of Screening. The height of screening shall be in accordance with the following:
 - (a) Visual screening by walls, fences, or mounds in combination with vegetation, fences or walls shall be a minimum of six (6) feet high measured from the natural grade, except as set forth in subsection (B) below.

- (b) Whenever the required screening is located within a front yard or within fifty (50) feet of a parking lot, drive, or driveway entrance, the required screening shall not exceed a height of three (3) feet.
- (c) When used alone, vegetation shall be a minimum of six (6) feet high, as measured from the natural grade, in order to accomplish the desired screening effect. The required height shall be achieved no later than two (2) years after the initial installation.

§ 1143.08 STREET TREE PLANTING REQUIREMENTS.

- (A) In all zoning districts, applicants shall plant and maintain shade trees along any portion of the subject development site that abuts a public street in compliance with the following:
 - (B) Species and Location Requirements.
 - (1) Trees shall be limited to species characterized as hardy, long-lived shade trees.

Approved Street Trees (a minimum three inch caliper at planting):

Princeton Elm (*Ulmus americana* 'Princeton')
Liberty Elm (*Ulmus americana* 'Liberty')
Lacebark Elm 'Allee' (*Ulmus parvifolia* 'Allee')
Lacebark Elm 'Athena' (*Ulmus parvifolia* 'Athena')
Lacebark Elm 'Milliken' (*Ulmus parvifolia* 'Milliken')
Golden Rain Tree (*Jadeda haematoloma*)
Japanese Scholar Tree (*Sophora japonica*)
Japanese Zelkova 'Green Vase' (*Zelkova serrata*)
Thornless Honey Locust (*Gleditsia triacanthos inermis*)
Autumn Blaze Red Maple (*Acer Rubrum* 'Autumn Blaze')
Valley Forge Elm (*Ulmus americana* 'Valley Forge')
Red Sunset Maple (*Acer Rubrum* 'Red Sunset')
October Glory Red Maple (*Acer Rubrum* 'October Glory')

- (2) One tree shall be provided for every forty (40) linear feet of frontage, or fraction thereof, along each road.
- (3) Trees are to be planted within the public rights-of-way within and abutting the development as directed by the Planning and Zoning Commission.
- (4) Each tree at the time of installation shall have a minimum caliper of 3 inches and a clear trunk height of at least eight (8) feet.

- (5) Trees shall be planted an adequate distance from intersections so that at full maturity such planting shall ensure the unobstructed visibility of motorists and pedestrians.
- (C) Planting Procedures.
- (1) The developer shall provide a map, drawn to an appropriate scale and illustrating the location and species of shade trees to be planted, to the Zoning Inspector, no less than three (3) days prior to planting.
 - (2) The developer shall provide the Zoning Inspector with a state inspection certificate and a certificate for tree species authenticity for each tree within five (5) days of planting.
 - (3) All nursery tags shall remain on planted trees until removed by the Zoning Inspector.
- (D) Maintenance. The developer shall be required to maintain the trees for two (2) years after the trees are planted and to replace any tree that dies within such two-year guarantee period.
- (1) Upon completion of the street tree planting, the landscape contractor shall contact the Zoning Inspector.
 - (2) The two-year guarantee period shall begin after approval is granted by the Zoning Inspector.
 - (3) A final inspection by the Zoning Inspector shall be made at the end of the guarantee period.

§ 1143.09 LANDSCAPE PLAN FLEXIBILITY.

The standards and criteria in this Chapter establish the City's objectives and levels of landscaping intensity expected. However, in applying these standards, the Planning and Zoning Commission may exercise discretion and flexibility with respect to the placement and arrangement of the required elements to assure that the objectives of this district and the proposed development or redevelopment are best satisfied when unique site conditions exist.

Chapter 1145 Sign Regulations

§ 1145.01 PURPOSE

It is the purpose of these sign regulations to promote the public health, safety, and general welfare by permitting the use of signs as a means of communication in the City of Deer Park with the following goals:

- (A) To maintain and enhance the City's natural and manmade environment.
- (B) To implement community design standards to encourage an attractive and healthy economic environment.
- (C) To reduce possible safety hazards to vehicle and pedestrian traffic through good signage.
- (D) To minimize the possible adverse effects of signs on nearby public and private property.
- (E) To enable the fair and consistent enforcement of these sign regulations. The purpose, as stated above, is based on the following findings or conditions concerning signs:
 - (1) That excessive signs create dangerous traffic conditions, intrude on motorist and pedestrian enjoyment of the natural and manmade beauty of the City, and as such are detrimental to the public health, safety, and general welfare of the City; and;
 - (2) That business enterprises and other institutions located along public and private streets have a need to identify themselves and their activities to motorists and pedestrians by means of signs.

§ 1145.02 SIGN DEFINITIONS

The following terms are defined for use under this section.

- (A) **Abandoned Sign:** Any sign remaining in place which no longer advertises or identifies an ongoing or active business, product, or service available; or a sign which is no longer maintained in a serviceable condition. The serviceability of a sign ceases when deterioration becomes as visibly recognizable as the image of the subject of the sign.
- (B) **Address Marker:** A numeric reference of a structure or site not included as part of a wall or monument sign. These are not normally considered a sign under this section.

- (C) A-Frame (Sandwich Board) Sign: A free standing sign usually hinged at the top. Such signs are considered portable and temporary.
- (D) Animated or Moving Sign: Any sign, other than a time and temperature display, which uses motion, lighting, or special materials to depict action or create a special effect.
- (E) Awning, Canopy, or Marquee Sign: A non-electric sign that is printed on, painted on, attached to an awning, canopy, or marquee and is only permitted on the vertical surface.
- (F) Banner, Flag, Pennant or Balloon: Any cloth, bunting, plastic, paper, or similar material, used for advertising purposes attached to, pinned on, or from any structure, staff, pole, line, framing, or vehicle, including captive balloons and inflatable signs, but not including official flags of local, state, national or foreign governmental organizations.
- (G) Billboard or Off-Site Advertising Sign: A sign, including supporting structure, advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished on the parcel on which the sign is located.
- (H) Building Face (Wall): The length of the single front building elevation in which the primary entrance to the business is located.
- (I) Changeable Copy Sign: A sign designed to allow the changing of copy through manual, mechanical, or electrical means. Time and temperature displays are not counted towards the allowable advertising sign footage as long as no business identification or advertising is presented as part of the display.
- (J) Civic Event Sign: A temporary sign posted to advertise a civic event sponsored by a public agency, school, church, civic/fraternal organization, or similar nonprofit organization.
- (K) Construction Sign: A temporary sign erected on the parcel on which construction is taking place. The sign may list the project name, owners, developers, professional services and contractors involved and any other major sponsors of the development.
- (L) Development or Subdivision Sign: A temporary sign promoting a new development or subdivision which has received City Planning and Zoning Commission review.
- (M) Directional Signs: Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as “one way”, “entry” or “exit”. These signs giving direction are not considered part of the advertising signage and do not require permitting. If additional advertising display is posted on the directional signs the Zoning Inspector may consider them as part of the square footage restrictions.

- (N) Double-Faced Sign: A post, pedestal, or monument display where the sign's faces are back to back and the sign copy is similar on both sides. The area of double-faced signs is considered based on dimensions of one side.
- (O) Garage or Yard Sale Sign: A temporary sign advertizing the sale of personal items at a residential property.
- (P) Incidental Signs: Incidental signs are signs no larger than three (3) square feet in size that display notices required by law, or show affiliations or services provided. Items displayed may be credit cards accepted, trade affiliations, business hours, or other similar information necessary to identify limits of or qualifications of service or product.
- (Q) Institutional Sign: A permanent sign identifying the premises of a church, school, governmental office, or non-profit institutional facility.
- (R) Logo Sign: A sign consisting of a symbol or mark associated with a business, service or product entity.
- (S) Monument Sign: A sign displayed on a pedestal or base that has a footprint 50% or more than the signs horizontal dimensions.
- (T) Nonconforming Sign: A legally established sign existing prior to the establishment of this Zoning Code which fails to conform to the regulations of this Chapter.
- (U) Political Sign: A temporary sign directly associated with a local, state, or national political election or issue.
- (V) Portable Sign: A sign designed and constructed to be easily set up and removed or relocated.
- (W) Promotional Sign: A temporary commercial sign posted to promote the sale of new products, new management, new hours, new service or to promote a special sale.
- (X) Projecting Sign: Any sign which is attached to the face of a building and projects no more than thirty-six (36) inches from the building wall face.
- (Y) Real Estate Sign: An on-site temporary sign pertaining to the sale, lease or rental of a building or premises. These signs include Open House signs which indicate when salespersons are available to represent the property subject to sale, lease or rent.
- (Z) Roof Sign: A sign erected, constructed, or placed upon or over a roof of a building, including a mansard roof, and which is wholly or partly supported by the building.

- (AA) Sign: Any display that evokes a message or shows any product, service, business, name, or other enterprise in a promotional manner. A sign may consist of wording, logos or images.
- (BB) Temporary Sign: Any sign that is approved to be displayed for a limited time period as set forth in this Zoning Code or by the Planning and Zoning Commission.
- (CC) Wall Sign: A sign painted on, printed on, or attached to a wall which has its face substantially perpendicular to the building face.
- (DD) Window Sign: Any sign that is applied, painted, or attached to a wall which is not a projecting sign.

§ 1145.03 SIGN PERMIT PROCEDURE

These sign regulations shall be administered and enforced by the Zoning Inspector unless otherwise provided for in this Zoning Code.

- (A) *Permit Required.* After the effective date hereof, no temporary sign, permanent sign or repaired sign, unless exempted by this Chapter, shall be erected, moved, materially or substantially altered, or enlarged in any zoning district except as hereinafter provided or as otherwise permitted. The permits shall be issued by the Zoning Inspector when the conditions of this Zoning Code are met. A sign for which a permit has been issued shall not be modified, relocated, altered or replaced unless a new permit or an amended permit is issued by the Zoning Inspector.

Each sign permit application shall be submitted to the Zoning Inspector and accompanied by the following information:

- (1) A fully dimensioned drawing showing the design of the proposed sign.
- (2) Fully dimensioned site plan showing the sign location in relation to property lines, right-of-way, buildings, walks, and drives.
- (3) Dimensioned elevation drawing showing the size, sign type, height, illumination method, support or mounting method, and construction materials.
- (4) The application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected or placed.
- (5) A fee, as set by the City Council shall be included with the application materials.

- (B) The Zoning Inspector may refuse to issue a permit for the erection of any such sign unless details of construction and manner of erection ensure the safety of such signs and signboards when erected.
- (C) The Zoning Inspector shall review the application for completeness and determine if the application is complete. If all information required is not provided, the Zoning Inspector shall promptly notify the applicant of the items needed. Upon completion, the Zoning Inspector shall act within 15 days by either rejecting the application and returning it to the applicant, or approving it and issuing a sign permit.
- (D) *Sign Permit Fees.* A schedule of fees for sign permits shall be established and amended from time to time by City Council.

§ 1145.04 SIGNS NOT REQUIRING A PERMIT

- (A) The following signs are exempt and do not require a sign permit from the Zoning Inspector. To maintain an exempt status, these signs must comply with restrictions as established in this Chapter.
 - (1) Political signs or posters concerning candidates for elective office, public issues, and similar matters to be decided by a scheduled public election. The signs shall not be illuminated, and shall not create a safety or visibility hazard, nor be affixed to any public utility pole or tree.
 - (2) Signs located inside a building and not visible from the outside through a window.
 - (3) Memorial signs and plaques installed by recognized civic organizations.
 - (4) Official and legal notices and signs issued by governmental agencies.
 - (5) Official flags of all governmental and civic/fraternal organizations.
 - (6) Construction signs when conforming to the conditions set forth under Section 1145.13.
 - (7) Non-residential directional signs located in the “MUB”, “PO” and “RNC” zoning districts provided that such signs are located on-site, have a maximum area which does not exceed three (3) square feet per sign, have a maximum overall height of four (4) feet above grade, and are mounted on a monument or pole. Such signs may be located in a required building setback area provided that a minimum distance of five (5) feet from any property line is maintained.

- (8) Garage and yard sale signs provided they conform to the regulations set forth in this Zoning Code.
 - (9) Signs clearly in the nature of decorations customarily associated with any national, local, or religious holiday, to be limited to 60 days in any one year, and to be displayed not more than 60 consecutive days. The signs may be of any illumination or animation, provided that safety and visibility hazards are not created.
 - (10) Nameplates, provided that the nameplate does not exceed one and one-half square feet and is flush to the building. Sign material must be appropriate to the face of the building.
 - (11) Incidental business signs as defined in this Chapter. A maximum of three (3) incidental signs shall be permitted for any single non-residential use.
- (B) The responsible party in each of the above instances shall be as follows:
- (1) In all cases, the person actually placing the sign.
 - (2) For political signs, the candidate whose name appears on the sign.
 - (3) For garage sale and yard sale signs, the owner of the property if he or she resides therein and has an interest in the sale, otherwise the lessee or other occupant of the property who is conducting the sale.
 - (4) For special event signs, the sponsoring organization shall be the responsible party.

§ 1145.05 PROHIBITED SIGNS

- (A) Prohibited Signs. The following signs are inconsistent with the sign standards established in this Chapter and are therefore prohibited. Permits shall not be issued for:
- (1) Animated, moving, flashing, blinking, reflecting, LED signs, other similar signs, with the exception of permanently mounted changeable copy signs and time and temperature displays as allowed in this Chapter.
 - (2) Mobile or portable signs, roof signs, announcement signs, fluctuation, or moving lights, pennants, ribbons, and streamers are prohibited.



Prohibited Temporary Portable Sign

- (3) Signs placed in, or overhanging, the public right-of-way. Signs with exception are: governmental signs and projecting signs.
- (4) Signs designed or constructed to resemble or imitate highway or traffic control signs or signals.
- (5) Temporary signs, found not in conformance to the regulations set forth in this Zoning Code. These signs may be confiscated by the Zoning Inspector, or his representatives and subject to a violation under this Zoning Code.
- (6) Billboard signs and any other off-site advertising method as defined in this Chapter are prohibited in all zoning districts.
- (7) Neon signs shall be prohibited except as expressly provided for the limited use in the MUB district as set forth in this Chapter.

§ 1145.06 PERMANENT SIGN STANDARDS.

All permanent signs shall require a permit. Permitted permanent signs shall be classified into one of the four following types: wall signs, projecting signs, window signs and ground-mounted signs.

- (A) Wall signs may be erected on a building wall or extension of a building wall which faces a street, parking lot or service drive, and such sign may not extend beyond any building setback lines. Wall signs shall be attached parallel to the building face and extend outward perpendicular from the building face a maximum of ten inches except as follows: Signs may be painted on an awning area or attached to a canopy, marquee, or roof which projects beyond the building, provided that no part of such sign shall extend above the roof line, canopy, or marquee.
- (B) Ground-mounted signs may be erected on a lot provided the location, height, and other characteristics of the sign meet the regulations of this Chapter.

- (C) Permanent window signs shall be limited to signs denoting the identification of the occupant, the address of the premises, and its use. Window signs shall be limited to one sign per window and shall not exceed one-fourth of the total area of the window, and in no case exceed ten (10) square feet.



Wall Sign



Window Sign



Ground Mounted Sign



Awning Sign

- (D) Projecting signs may be attached to the face of a building and providing the sign projects no more than eighteen (18) inches from the building face. All signs projecting over city property shall be installed so as to ensure a minimum of ten (10) feet of clearance from the bottom of the sign to the sidewalk pavement. If extended over any roadway or alley, fifteen (15) feet of clearance from the bottom of the sign to the roadway pavement shall be provided to permit safe vehicular traffic. A projecting sign may encroach into the public right-of-way provided the other conditions of this Chapter are met.



Projecting Sign

- (E) The following general requirements shall apply to all permanent signs:
- (1) *Illumination.* Illumination shall be from a concealed or indirect light source and shall not flash, blink, fluctuate, travel, move, or in any manner fail to provide constant illumination and shall not create a hazard or visibility problem or interfere with or impair vehicular traffic. The level of illumination emitted from a sign shall not be of an intensity to constitute a demonstrable safety hazard to vehicular movement on any street from which the sign may be viewed. Illuminated signs shall be constructed and maintained so that the source of illumination is shielded or otherwise prevented from beaming directly onto adjacent properties or streets.
 - (2) *Animation, message centers, and moving signs.* Message centers, flashing signs, moving signs, and the animation of signs is prohibited.
 - (3) *Construction.* The construction of all signs, including any electrical wiring necessary for the operation of illuminated signs shall conform to the specifications of the Ohio Basic Building Code. All signs shall be adequately maintained and shall not constitute a safety hazard.
 - (4) *Location.*
 - (a) All permanent signs shall be located on the same parcel which is being promoted, identified, or advertised.
 - (b) In no case shall any part of a sign be placed in, over, or extend onto any public right-of-way, except for publicly-owned signs, such as traffic control and directional signs, sandwich board signs and projecting signs as regulated in this Chapter. In no case shall any part of a sign be placed in, over, or extend above the roof line of any structure.
- (F) The height of the sign shall be measured from the established grade which shall be defined as that point where the grade line intersects the front wall of the building.

§ 1145.07 “R-1”, “R-2”, “PR” ZONING DISTRICTS: SIGN REGULATIONS.

A permitted use located within a “R-1”, “R-2” or “PR” Residential Districts shall be allowed a maximum of one permanent wall sign consisting of a home occupation sign or one temporary sign as regulated in this Chapter. Applicable signs not requiring a permit shall also be permitted in these residential zoning districts.

§ 1145.08 “RNC” ZONING DISTRICT: SIGN REGULATIONS.

- (A) A permitted non-residential use located within the “RNC” Residential - Nursing Care District shall be allowed a maximum of two signs which may be a combination of any of the following:
- (1) A wall sign shall not exceed one square foot per linear foot of the building’s front wall, with a maximum of 40 square feet allowed.
 - (2) A ground-mounted sign not to exceed 8 feet in height with a maximum of 32 square feet of sign area. Only one ground-mounted sign will be allowed per building. A ground-mounted sign shall be set back a minimum of five (5) feet from any front or side property line. A ground-mounted sign shall not be placed in a manner that creates a site visibility problem for vehicular traffic.
- (B) Privately-owned safety, traffic control, or on-site directional signs including but not limited to "EXIT," "ENTRANCE," "CLEARANCE," "PARKING," or "NO PARKING" signs shall be permitted in the “R-NC” zoning district provided these signs contain no advertising consisting of words, symbols or similar graphic messages. These signs shall not be illuminated, not exceed four (4) square feet in area nor exceed a free-standing sign height of two feet.

§ 1145.09 “PO” PLANNED ZONING DISTRICT: SIGNS REGULATIONS.

- (A) A permitted use located within the Planned Office District shall be allowed a maximum of two signs which may be a combination of any of the following:
- (1) A wall sign shall not exceed one square foot per linear foot of the building’s front wall, with a maximum of 40 square feet allowed.
 - (2) A ground-mounted sign not to exceed 8 feet in height with a maximum of 32 square feet of sign area. Only one ground-mounted sign will be allowed per building. A ground-mounted sign shall be set back a minimum of five (5) feet from any front or side property line. A ground-mounted sign shall not be placed in a manner that creates a site visibility problem for vehicular traffic.
- (B) Privately-owned safety, traffic control, or on-site directional signs including but not limited to "EXIT," "ENTRANCE," "CLEARANCE," "PARKING," or "NO PARKING" signs shall be permitted in the “PO” zoning district provided these signs contain no advertising consisting of words, symbols or similar graphic messages. These signs shall not be illuminated, not exceed four (4) square feet in area nor exceed a free-standing sign height of two feet.

- (C) One sign may be illuminated per office structure. Flashing signs or internally illuminated signs are not permitted.

§ 1145.10 “MUB” ZONING DISTRICT: SIGN REGULATIONS.

The Mixed Use Business District abuts or is in close proximity to residential areas and are within walking distance of residential housing. In order to maintain an aesthetically appealing and pleasant environment for the residents abutting the commercial use, the following shall apply:

- (A) A permitted use located within the Mixed Use Business District shall be allowed a maximum of two signs which may be a combination of any of the following:
 - (1) A wall sign shall not exceed one square foot per linear foot of the building’s front wall, maximum of 20 square feet. If more than one business is located in a single building, each tenant shall be permitted one wall sign not exceed one square foot per linear foot of the width of the individual tenant space measured along the building’s front wall, maximum of 20 square feet. Only one wall sign per business shall be permitted. Wall signs shall not project more than 36 inches from the building wall and shall not extend above the wall or beyond the wall to which they are attached.



Measuring individual tenant space width for wall sign area calculation.

- (2) A ground-mounted sign not to exceed 5 feet in height with a maximum of 20 square feet of sign area. Only one ground-mounted sign will be allowed per building. A ground-mounted sign shall be set back a minimum of five (5) feet from any front or side property line. A ground-mounted sign shall not be placed in a manner that creates a site visibility problem for vehicular traffic.
 - (3) A projecting sign not to exceed twelve (12) square feet nor project more than 18 inches from the building wall. If more than one business is located in one building, one projecting sign per business shall be permitted.
 - (4) An awning sign not to exceed twenty (20) square feet of sign area.
 - (5) A window sign not to exceed twenty percent (20%) of the total square footage of the transparency area of the front façade of the storefront.
- (B) Privately-owned safety, traffic control, or on-site directional signs including but not limited to "EXIT," "ENTRANCE," "CLEARANCE," "PARKING," or "NO PARKING" signs shall be permitted in the "MUB" and "PO" zoning districts provided these signs contain no advertising consisting of words, symbols or similar graphic messages. These signs shall not be illuminated, not exceed four (4) square feet in area nor exceed a free-standing sign height of two feet.
 - (C) One sign may be illuminated per business. Flashing signs or internally illuminated signs are not permitted.
 - (D) Flags shall be prohibited in the MUB district except for the United States and State of Ohio flags attached to poles not exceeding thirty (30) feet in height or attached to the face of a building.
 - (E) Neon signs may be permitted in the MUB district provided they do not exceed six (6) square feet in size and no more than one neon sign shall be permitted per business. For the express purpose of determining permitted number of signs for a business, neon signs shall be considered a "window" sign.

§ 1145.11 "MUB" AND "PO" ZONING DISTRICTS: SIGN DESIGN STANDARDS

The following design standards shall apply to all proposed temporary and permanent signs proposed for the "MUB" zoning district and "PO" zoning district.

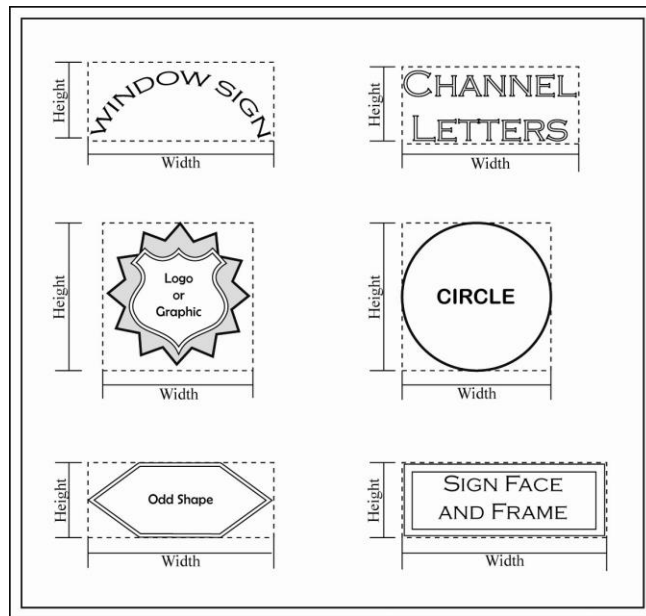
- (A) In addition to ensuring compliance with this Chapter, the Zoning Inspector, in reviewing all signs, shall also:

- (1) Consider the proposed general design, arrangement, texture, material, colors, lighting and placement.
 - (2) Consider the appropriateness of the proposed sign in relationship to other signs and structures, both on the premises and in the surrounding areas.
 - (3) Approve signs which are consistent with the intent, purposes, standards and criteria of this Chapter.
- (B) Specific standards for determining the appropriateness of signs shall be as follows:
- (1) The lettering shall be large enough to be easily read but not overly large or out of scale with the building or site.
 - (2) The number of items (letters, symbols, shapes) shall be consistent with the amount of information which can be comprehended by the viewer, reflect simplicity, avoid visual clutter and improve legibility.
 - (3) The shape of the sign shall be simple and not create visual clutter.
 - (4) A ratio between the message and the background shall permit easy recognition of the message.
 - (5) The size, style and location of the sign shall be appropriate to the activity of the site.
 - (6) The sign shall complement the building and adjacent buildings by being designed and placed to enhance the architecture.
 - (7) The sign should be consolidated into a minimum number of elements.
 - (8) Signs shall have an appropriate contrast and be designed with a limited number of, and with the harmonious use of, colors.
 - (9) Extraneous sign elements, by virtue of inappropriate remodeling, and which exist at the time a new sign is proposed, shall be removed to improve the clarity and design of the proposed sign and restore the character of the building.
 - (10) Signs, if seen in series, shall have a continuity of design, with the style of sign generally consistent throughout the building or block.

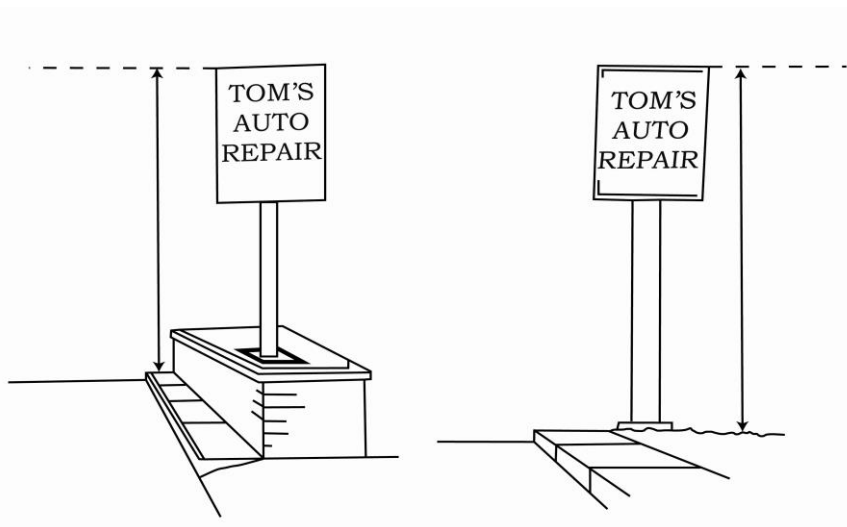
- (11) Instructional signs shall contain the minimum information and the minimum area necessary to convey the message and instruct the viewer in the safe and efficient use of the facility.
- (12) Visible frames or supports for projecting signs shall be artistic in nature.
- (13) A sign should be constructed with a minimum of different types of material so as to provide a consistent overall appearance.

§ 1145.12 SIGN MEASUREMENT STANDARDS

- (A) Measurement Standards. The area of the sign is determined by the dimensions of the background structure, unifying background area, or by the maximum dimensions of the display area if posted on a common background. The following standards shall be used to determine the area and height measurements for all signs erected or posted within the City:
- (1) The area of a sign shall be computed by means of the smallest square area that will encompass the exterior display limits of a sign, but not including the supporting frame or bracing as described in the illustration below.
 - (2) The area of a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point.
 - (3) In the case of irregularly shaped three dimensional signs, the area of the display surface shall be measured on the plane of the largest vertical cross section.
 - (4) The height of a sign shall be determined by measuring the vertical distance between the highest point of the sign to the ground elevation at the base of the sign. If mounding was used at the sign base, the ground elevation shall be determined as the average ground elevation of the developed site at the sign base prior to mounding.



Measurement Standards for Determining Sign Area



Measuring Sign Height

- (5) The setback of a sign shall be measured from the vertical projection of the property line or street right-of-way line to the closest part of the sign.
- (6) Lots in the "MUB" zoning district having frontage on more than one public street shall have a maximum allowable sign area equal to twice that of its shortest frontage, not to exceed twice the maximum number of square feet otherwise allowed in the zone. These lots shall also be permitted twice the

number of signs otherwise allowed in their zone; however, there shall be no increase in the number of ground mounted signs allowed.

§ 1145.13 GENERAL SIGN REGULATIONS

- (A) Cross-corner Sight Restrictions. No sign, or part of a sign structure wider than one (1) foot, shall be erected in the cross-corner line of sight between the heights of three (3) feet and eight (8) feet, as measured from the center lines of the relevant pavements, in the following locations:
- (1) At street intersections, within a triangle, two sides of which are measured from the point of intersection of the street rights-of-way, a distance of 40' parallel to the through street and a distance of 15 feet parallel to the stop street. At 4-way stops the distance shall be 40 feet parallel to each street.
 - (2) At drives - within a triangle, two sides of which are measured from the point of intersection of the street right-of-way and the centerline of the drive, a distance of 50 feet parallel to the street, and a distance of 15 feet parallel to the centerline of the drive.
- (B) Non-conforming Signs. All signs which are in existence on the effective date of this Zoning Ordinance shall be considered legal nonconforming uses and shall be subject to the following provisions:
- (1) No nonconforming sign shall be structurally altered so as to change the shape, size, type or design of the sign, nor shall any nonconforming sign be relocated until it meets the requirements of this Chapter and receives a permit.
- (C) Temporary Signs. Temporary signs require a permit unless they are identified as not requiring a permit under this Chapter. All temporary signs, unless specifically identified otherwise, shall be considered temporary commercial signs. The following regulations shall apply to temporary signs:
- (1) Civic Event Signs. These signs shall be registered with the Zoning Inspector listing the organization responsible, a contact person, dates of posting, sign size, and location of sign. All posting periods and placements must receive approval of the Zoning Inspector. Any signs not receiving this approval shall be considered in violation of this Zoning Code.
 - (2) Construction Signs. These signs shall be shown as part of the development's site plan. The number of signs, their location and sizes, shall be approved by the Zoning Inspector before installation. If conditions warrant, the Zoning Inspector may allow placement of the construction sign off-site. The posting of the sign(s) shall be limited to the construction period which begins one week before the

actual work begins or with the ground breaking, which ever is first, to the conditional final acceptance by the owner.

- (3) **Development or Subdivision Signs.** The conditions for the placement of these signs at a development or subdivision shall be set by review by the City Planning and Zoning Commission during the site plan review or subdivision plat review process. These conditions shall be incorporated into a site plan approval or subdivision plat approval.
- (4) **Real Estate Signs.** Real estate signs are not permitted to be located in any public right-of-way areas. They are allowed a maximum area of 6 square feet in residential districts and 32 square feet in all other districts. One sales sign is allowed per property frontage. In addition, an open house sign is allowed for a week period prior to the open house date. Sales signs shall be removed from a property within one week of closing.
- (5) **Garage and Yard Sale Signs.** These signs are to be posted only on private property. The signs shall not exceed 6 square feet in area. They shall be posted only the day of the sales. No signs shall be posted on any public utility or light poles.
- (6) **Temporary Commercial Signs.** The Zoning Inspector, in accordance with the provisions herein, is authorized to issue permits for the erection and maintenance of temporary commercial signs when advertising a special sale or event. Such permit shall be issued for a period not to exceed thirty (30) days, nor more frequently than once in each three (3) month period for the same premises. Temporary commercial signs shall not be illuminated. Temporary commercial signs shall not be larger than ten (10) square feet. No temporary signs containing commercial messages shall be permitted in residential districts. No permit shall be issued for aerial signs, or signs designed to be moved on trailer wheels, skids, or on other similar devices. The area, height and number of temporary commercial signs shall be determined by the requirements established in the regulations for each zoning district. No more than one (1) temporary commercial sign per parcel shall be permitted. Parcels containing more than one business or tenant may jointly advertise on a single permitted temporary commercial sign.
- (7) **A-Frame Signs.** In the “MUB” zoning district, if a property has a minimum eight (8’) foot wide sidewalk, each business may have one (1) A-Frame sign, or similar type portable “sandwich board” style sign, provided all the following conditions are met:
 - (a) The sign shall only be on display during business hours of the business it advertises and may contain changeable copy.

- (b) The sign shall not exceed 30 inches in width and 48 inches in height.
- (c) The sign shall be placed on the sidewalk only with the approval of the owner of the front property.
- (d) Its nearest edge must be placed either a maximum of one (1) foot from the right-of-way line or between one (1) and one and a half (1.5) feet from the curb.
- (e) Signs should be of a sturdy design and construction that resists being moved or blown over by the wind. However, they shall not be attached to publicly owned sign posts, hydrants, trees, or other street furnishings located in the right-of-way.



A-Frame (Sandwich Board) Sign

- (8) Home Occupation Signs. Signs for home occupations are normally located in residential areas. In order to maintain an aesthetically appealing and pleasant environment for all residents in the area where the home occupation is located, the following restrictions shall apply. For any single family residentially zoned area (R-1 and R-2), the following shall apply:
 - (a) Only one home occupation sign will be permitted per residence. The sign shall be a wall mounted sign and be no larger than four square feet.
 - (b) Illuminated or flashing signs shall be prohibited.
- (E) No signs are permitted on the rear of a non-residential building unless the sign is intended to direct pedestrian or vehicular traffic in the parking area while on the same premises. Rear wall directional signs can be no larger than four square feet and may only be a wall sign that extends no further than six inches from the wall.

- (F) Street Number Required. An owner, occupant, or person having control of a residential, industrial, commercial, or public building shall display the numerical address of the building in Arabic numbers not less than four inches in height.
- (G) Official governmental signs and notices are exempt from provisions of this Zoning Code.

§ 1145.14 MAINTENANCE OF SIGNS

- (A) The property owner shall maintain all signs in a safe and attractive condition for the intended use. For the purposes of this Chapter, a sign is not legally maintained if any of the following occur: the appearance of rust, cracks, electrical defects, fraying, chipped paint or other materials, structural defects or other defects. Such factors shall cause it to be presumed that a sign is not being legally maintained.
- (B) The property owner of such a sign may receive notice from the Zoning Inspector to return the sign to its original satisfactory condition within sixty (60) days of the date of maintained in accordance with this Zoning Code or other applicable regulations of the City, are hereby declared to be a nuisance contributing to visual blight and are hereby determined to be in violation of this Zoning Code. The property owner also has a continuing obligation to comply with the Ohio Basic Building Code.
- (C) If the sign is deemed by the Zoning Inspector to be in an unsafe condition, the owner of the property shall be immediately notified, in writing, and shall, within 48 hours of such notification, correct such unsafe condition or remove the sign. If the correction has not been made within 48 hours, the Zoning Inspector may remove such unsafe sign or cause such unsafe sign to be removed, repaired or maintained at the expense of the property owner. To recover the costs from the property owner, the City may certify the total cost, together with a proper description of the land, to the Hamilton County Auditor to place such costs upon the tax duplicate, or the City may commence a civil action against the property owner for the costs.
- (D) All lighting of signs shall be fully functional as designed or the lighting shall be turned off until such time as such non-functioning lighting has been fixed.
- (E) Whenever any sign, either conforming or nonconforming to this Chapter, is required to be removed for the purpose of repair, re-lettering or repainting, the same may be done without obtaining a permit or paying fees, provided that all of the following conditions are met:
 - (1) There is no alteration or remodeling to the structure or the mounting of the sign itself.

- (2) There is no enlargement or increase in any of the dimensions of the sign or its structure.
- (3) The sign is accessory to a legally permitted or legally nonconforming use.

§ 1145.15 NONCONFORMING SIGNS.

- (A) The continuance of an existing sign which does not meet the regulations and requirements of this Chapter shall be deemed a nonconforming sign which shall terminate by abandonment. A sign shall be considered abandoned:
 - (1) When the sign is associated with an abandoned use.
 - (2) When the sign remains after the termination of a business. A business has ceased operations if it is closed to the public for at least 90 consecutive days. Seasonal businesses are exempt from this determination.
 - (3) When the sign is not maintained or does not conform to the following:
 - (a) All signs, together with all supports, braces, guys, and anchors shall be kept in repair and in a proper state of preservation. The display surfaces of all signs shall be subject to periodic inspection in accordance with the Ohio Building Code.
 - (b) Every sign and the immediately surrounding premises shall be maintained by the owner or person in charge thereof, in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, and weeds.
 - (4) Abandonment shall be determined based upon the above definitions. Upon a finding by the Zoning Inspector, that the signage is abandoned, the right to maintain and use such sign shall terminate immediately.
 - (5) If the abandoned sign is not removed as ordered, the sign may be removed by the City at the expense of the lessee or owner. If the City is not reimbursed for the cost of removal within thirty (30) days of such removal, the amount thereof shall be certified to the Hamilton County Auditor for collection as a special assessment against the property upon which such sign is located.
- (B) A nonconforming sign shall not be structurally relocated or replaced unless it is brought into compliance with the provisions of this Chapter.
- (C) A nonconforming sign shall be maintained or repaired in accordance with the following provisions:

- (1) The site and structural shape shall not be changed or altered. The copy may be changed provided that the change applies to the original nonconforming use associated with the sign and that the change is made by the owner of the sign at the time the sign became nonconforming. The copy area shall not be enlarged. Any subsequent owner or user shall bring the sign into compliance within 30 days.

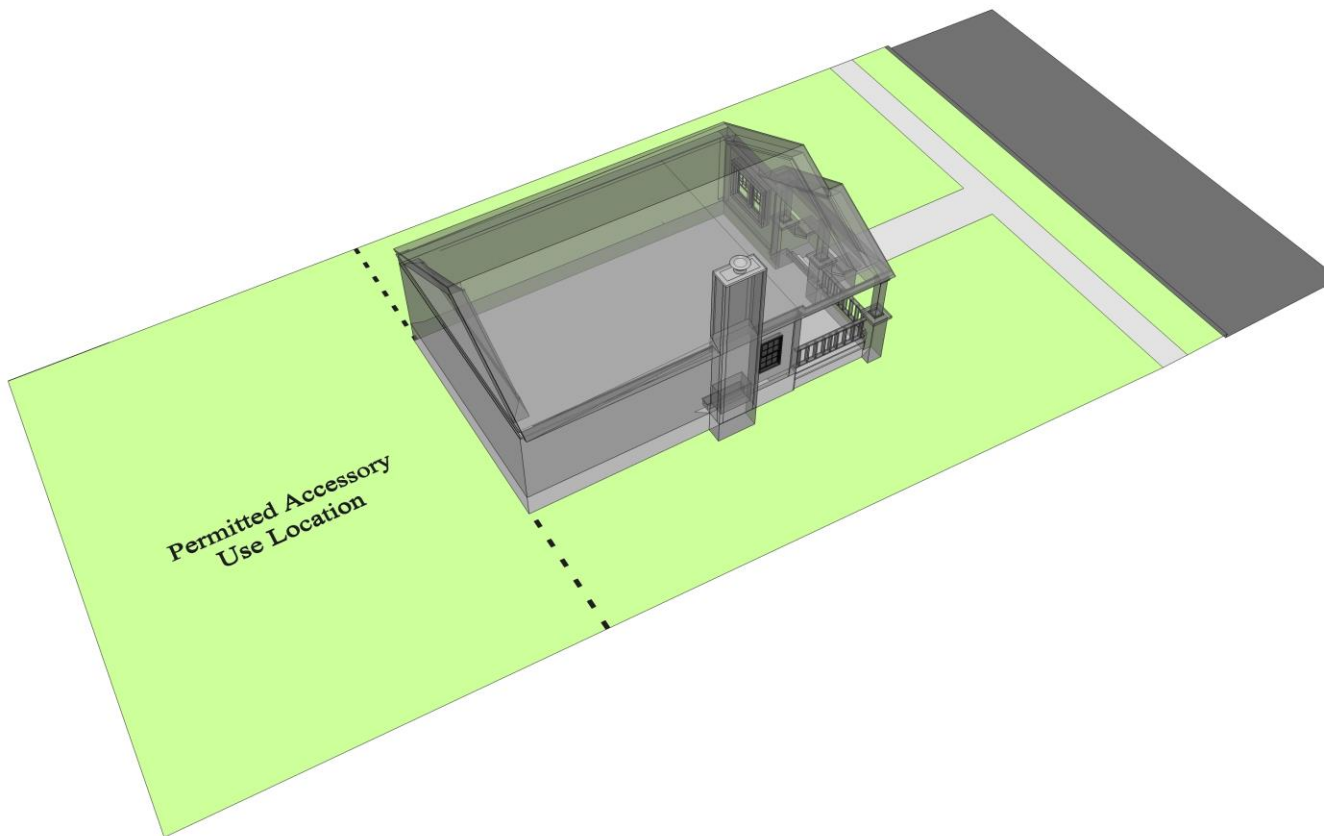
- (2) In the event damage occurs to the sign to the extent of 50% or more of either the structure or the replacement value of the sign, the sign shall be brought into compliance. Where damage to the sign is less than 50% of the structure or its replacement value, the sign shall be repaired within sixty (60) days.

Chapter 1147 Accessory Use Regulations

§ 1147.01 ACCESSORY USES STANDARDS

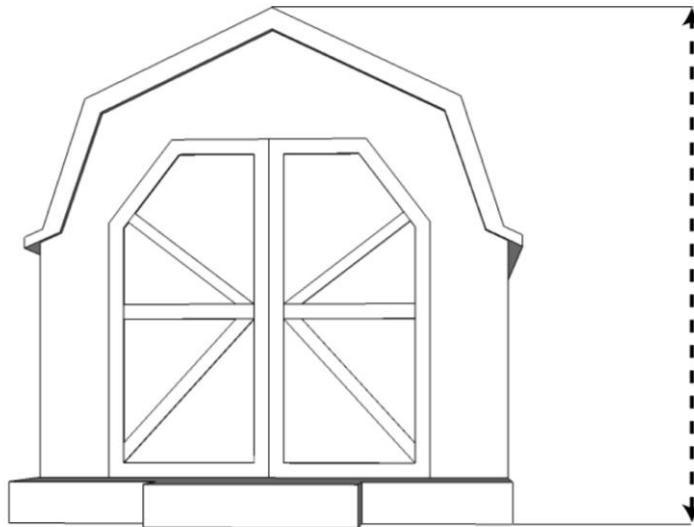
- (A) Accessory structure and use shall mean a subordinate building or structure located on the same lot with the principal building, or a subordinate use of land, either of which is customarily incidental to the principal building or to the principal use of the land. Where a substantial part of the wall of an accessory building is attached to the main building in a substantial manner, as by a roof, such accessory building shall be counted as part of the main building.

- (B) An accessory structure may be erected detached from the principal building. No detached accessory building or buildings shall be erected in any required yard except a rear yard, and shall not occupy singly or in combination more than thirty-five percent (35%) of the area of the required rear yard, as required herein.



Permitted Yard Area for Accessory Structure Location

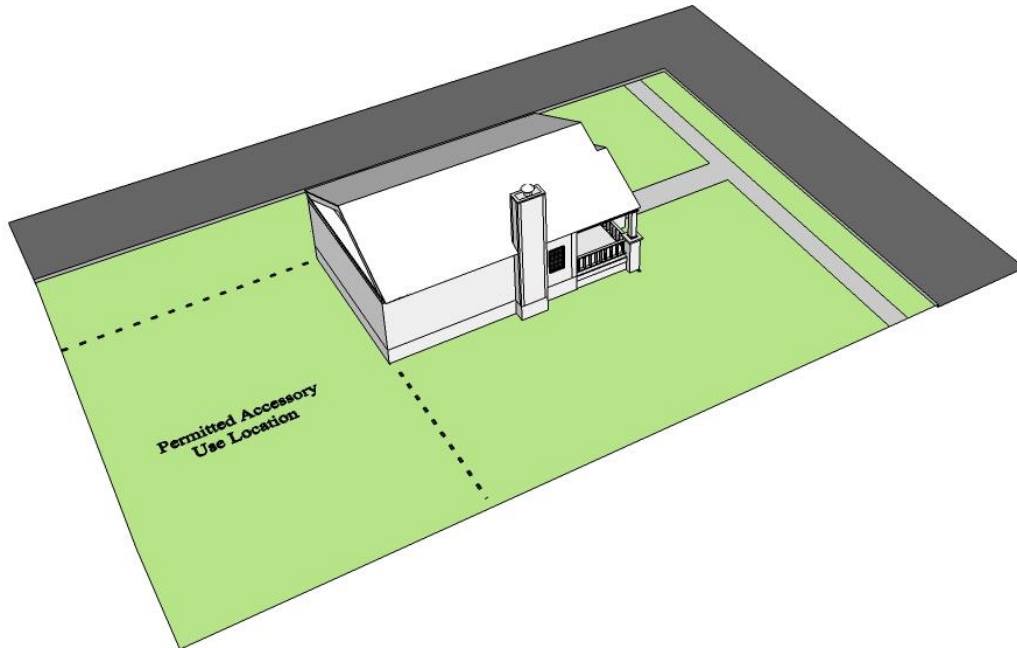
- (C) If a detached accessory structure is connected to the principal building by a breezeway, the ground area of such breezeway shall be considered as a part of the accessory structure and be included in the computation. A limit of two detached accessory buildings or structures, not to exceed a combined total of 576 sq. ft., shall be permitted, or one detached accessory building shall be permitted in conjunction with a detached garage. *((C) edit to Code 7-12-10 Res.10-09)*
- (D) A detached accessory garage for the primary use of storing a motor vehicle shall not exceed sixteen (16) feet in height. All other detached accessory structures and buildings shall not exceed twelve (12) feet in height.



Measuring Height for an Accessory Structure

- (E) A detached accessory building or structure shall be located at least ten (10) feet from any dwelling situated on the same lot.
- (F) A detached accessory building or structure not integrally joined to another accessory building or structure shall be located at least ten (10) feet from such other accessory structure.
- (G) A detached accessory building or structure shall be located at least three (3) feet from any side or rear lot lines.
- (H) Any accessory building or structure, if not located in the rear yard, shall be an integral part of or connected with the principal building to which it is accessory, and shall be so placed as to meet all yard and height requirements for a principal building.

- (I) On a corner lot abutting in the rear or the side lot in an R District, any accessory building, structure or part thereof within twenty-five (25) feet of the common lot line shall not be closer to the side street lot line than the least depth of the front yard required on such other lot fronting the side street, and in no case shall any part of such accessory building be closer to the side street lot line than the least width of the side yard required for the principal building to which it is accessory.
- (J) Design Standards. The following design standards shall apply to all permitted accessory buildings:
 - (1) A minimum 4/12 pitch roof shall be utilized.
 - (2) The roof shall be either a shingled roof or standing metal seam roof.
 - (3) All exterior building material requirements provided for in the underlying zoning district regulations shall apply to the construction of all permitted accessory buildings.
- (K) When access to a garage is from an alley, such garage shall be located not less than ten (10) feet from the alley right of way.



Permitted Yard Area for Accessory Structure Location on Corner Lots

§ 1147.02 PERMITTED ACCESSORY USES: NON-RESIDENTIAL ZONING DISTRICTS.

In the “PO”, “MUB” and “R-NC” zoning districts, any use which is customarily found in conjunction with and required for the full utilization and economic viability of the principal commercial use located on the same lot which meets the definition of accessory use as stated in the Zoning Code, and which complies to the applicable standards of the district in which it is located is permitted.

§ 1147.03 ACCESSORY USES NOT PERMITTED: RESIDENTIAL DISTRICTS.

- (A) Over twenty-four (24) hour parking or outdoor storage of trucks over one (1) ton rated capacity, buses, or mobile homes.
- (B) Outdoor storage, such as but not limited to: junk, wood, lumber, building materials, parking of inoperative or unlicensed motor vehicles or similar items of property.
- (C) Housing, keeping or raising of:
 - (1) Farm or agricultural animal, whether the animal is housed as a pet or for an agricultural purpose.
 - (2) Any birds or animals that endanger the health, safety or welfare of the public of the City.

Chapter 1149 Conditional Use Regulations

§ 1149.01 PURPOSE.

Most types of land uses covered by this Zoning Code are grouped according to compatibility and function, and each group is permitted outright in one or more of the various districts established in the Zoning Code. In addition to these permitted uses, there are other uses which it may be necessary or desirable to allow in certain districts but because of their potential impact on adjacent land or public facilities, require particular and individual consideration prior to location in the community. Such uses are classified in this Zoning Code as "conditional uses."

§ 1149.02 CONDITIONAL USE PERMIT APPLICATION.

Any owner, or agent thereof, of property for which a conditional use is proposed, shall make an application for a conditional use permit by filing it with the Zoning Inspector. Any application for a conditional use shall be accompanied by the following contents.

- (A) Name, address, and phone number of the applicant;
- (B) A legal description of the property;
- (C) A detailed description of the existing use and proposed use;
- (D) The zoning district in which it is located;
- (E) A narrative statement evaluating the effects on adjoining property; the effect of those elements such as noise, glare, odor, fumes, and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district;
- (F) If a proposed conditional use meets the requirements for a site plan application submission as provided for in Chapter 1139, the conditional use application shall also contain those site plan application requirements.

§ 1149.03 PROCEDURES FOR OBTAINING A CONDITIONAL USE PERMIT.

After reviewing the conditional use permit application and determining that the application is complete, the Zoning Inspector shall transmit copies of the application to the Planning and Zoning Commission, along with other agencies and organizations deemed necessary. If all information required is not provided, the Zoning Inspector shall promptly notify the applicant of the items needed. Within 30 days following the determination that the application is complete, the Planning and Zoning Commission shall hold a public hearing. Notice of such hearing shall be given in one or more newspapers of general circulation in the city at least ten days before the date of said hearing. The notice shall set forth the time and place of the hearing and shall provide a summary explanation of the

conditional use proposed. Notice of this public hearing shall also be sent to all owners of property within 300 feet of the property in question. Following the hearing, but within 30 days after the determination that the application is complete, the Planning and Zoning Commission shall make a decision. The decision may be appealed by any interested party in writing to the Board of Zoning Appeals if such appeal is received within 30 days following the decision of the Planning and Zoning Commission. The written appeal must be filed with the Zoning Inspector. On receipt of the written appeal, the BZA shall discuss the appeal at a public hearing and shall make a decision whether to grant the conditional use based on the standards set forth in Chapter 1105.

§ 1149.04 GENERAL STANDARDS FOR ALL CONDITIONAL USES.

- (A) *General standards for all conditional uses.* The Planning and Zoning Commission shall review the particular facts and circumstances of each proposed conditional use in terms finding that the proposed conditional use is consistent with the following standards:
- (1) The conditional use is consistent with the spirit, purpose and intent of the Comprehensive Plan, will not substantially and permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
 - (2) The proposed conditional use is to be located in a district wherein such use may be permitted, subject to the requirements of this Chapter.
 - (3) The requirements set forth for each specific conditional use will be met.
 - (4) The proposed use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, stormwater facilities, water, sewer, and schools or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
 - (5) In the interest of public safety, as a matter of policy, all points of ingress/egress shall be located as far as possible from the intersection of two or more major thoroughfares.
 - (6) The proposed use will comply with all applicable development standards, except as specifically altered by the Planning and Zoning Commission in the approved conditional use.
 - (7) The proposed use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.

- (8) The use will not be hazardous to or have a negative impact on existing or future surrounding uses.
- (9) The proposed use will not be detrimental to the economic welfare of the community.
- (10) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.
- (11) The proposed use will not be detrimental to property values in the immediate vicinity.
- (12) The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (13) When applicable, minimum standards for parking and loading shall be as required in the Off-Street Parking and Loading Facilities Chapter of this Zoning Code.
- (14) When applicable, parking areas shall not encroach upon any bufferyard required in the Landscape and Screening Standards Chapter of this Zoning Code.
- (15) When applicable, minimum standards for landscaping shall be as required in the Landscaping and Screening Standards Chapter.

§ 1149.05 SPECIFIC STANDARDS FOR CONDITIONAL USES

The following minimum requirements shall be imposed on conditional uses. Additional requirements may be imposed by the Planning and Zoning Commission if deemed appropriate to meet the spirit and intent of this Zoning Code and the Deer Park Comprehensive Plan. In granting any conditional use, the Planning and Zoning Commission may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Zoning Code.

- (A) Automated Teller Machines (ATMs).
 - (1) This section applies to ATM's incorporated into the building face of a structure and includes those ATM's that are stand alone accessory structures or attached as part of a drive-through canopy structure.

- (2) No structure shall exceed 15 feet in height.
- (3) All structures and activity areas, except off-street parking, shall be located no less than 50 feet from all lot lines abutting any residential zoning district and no less than 35 feet from all lot lines abutting non-residential zoning districts.
- (4) The Planning and Zoning Commission may require that a photometric analysis be provided in order to ensure that the foot candles at any property line abutting against any residential use or zoning district does not exceed .5 foot candles.

(B) Automobile Sales

- (1) The minimum lot size shall be two (2) acres.
- (1) The building setback for such establishments shall be located a minimum of 150 feet from any residential district and the minimum parking setback shall be 50 feet.
- (2) All work shall be performed entirely within an enclosed building. During the time work is performed on a vehicle, the vehicle shall be entirely within the building.
- (3) Vehicle parking areas, vehicle and equipment storage areas, maneuvering lanes and access ways to public streets shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site.
- (4) No scrap metal, scrap or salvaged parts, junk vehicles or used oil, antifreeze, transmission or other such fluids shall be stored above ground on the site.
- (5) Parking areas shall not exceed the required number of off-street parking spaces set forth in the Off-Street Parking and Loading Facilities Chapter.
- (6) Any proposed loudspeaker system shall be approved as part of the site plan and may require conditions regulating the hours of usage and maximum decibel levels.

(C) Automobile Gasoline and Service Stations.

- (1) This section applies to those commercial uses selling automobile gasoline and those commercial uses engaging in the repair or restoration of any type of vehicle, or a combination of both types of uses.
- (2) No structure shall exceed twenty (20) feet in height.

- (3) All structures and activity areas, except off-street parking, gasoline pump islands and canopies, shall be located no less than forty (40) feet from all lot lines. Gasoline pump islands shall be located no less than twenty (20) feet from the road right-of-way. Canopies shall be located no closer than fifteen (15) feet from the road right-of-way. Where the property abuts any residential zoning district or land use, the Planning and Zoning Commission shall decide on setback requirements taking into account surrounding properties and the Deer Park Comprehensive Plan.
- (4) There shall be no more than two (2) ingress/egress drives onto the property. No drive shall exceed thirty-five (35) feet in width.
- (5) Lubrication, washing and other incidental servicing of motor vehicles and all supply and merchandise storage shall be completely within an enclosed building except as otherwise provided herein.
- (6) Lighting, including permitted illuminating signs, shall be arranged so as not to reflect or cause glare that would constitute a nuisance to any residential use or hazard to traffic on any public thoroughfare.
- (7) Employee vehicles and vehicles awaiting servicing or return to customers following servicing shall be parked in areas indicated for such parking on the approved site plan. Such parking areas shall be located no less than fifty (50) feet from the road right-of-way.
- (8) The sale of motor vehicles on automotive gasoline or automobile service station premises shall be prohibited.
- (9) The outdoor storage of any materials, part or the outdoor display of goods and merchandise for sale shall be prohibited.
- (10) Notwithstanding any other provision of this or any other Chapter relating to the development of automotive service stations, no signs, product displays, parked vehicles or other obstructions which adversely affect visibility at intersections or at station driveways shall be permitted.
- (11) Underground tanks must be removed if the property is to be converted to another use.
- (12) The following shall regulate the abandonment of automobile service stations:
 - (a) If any automotive service station is abandoned for a period of at least six consecutive months, such station shall be presumed to be a nuisance affecting or endangering surrounding property values and to be

detrimental to the public health, safety, convenience, comfort, property or general welfare of the community and shall be abated.

- (b) Such abandoned condition shall be abated within sixty (60) days either by placing the station in operation in accordance with this section and other applicable laws and regulations of the City and State, adopting and using the building or structure for another permitted use in the district in which it is located, or by razing the station, removing the pumps and signs, abandoning the underground storage tanks in accordance with safe accepted practices as prescribed by the National Fire Protection Association and filling depressions to the grade level of the lot; however, if the station is in operation at the time notice is given and remains in operation for ninety (90) consecutive days thereafter, the provision of this division shall not apply. Whenever the Zoning Inspector shall find any automotive service station to be abandoned, the Zoning Inspector shall give notice in the same manner as service summons in civil cases, or by certified mail addressed to the owner of record of the premises at the last known address to which tax bills are sent, or by a combination of the foregoing methods.
 - (c) On the failure, neglect or refusal of any owner to comply with the notice to abate such abandonment, the Zoning Inspector shall take action as may be necessary to abate such nuisance.
 - (d) Inoperative service stations which do not come within the definition of an abandoned station shall be maintained in accordance with the provisions of this section and other applicable laws and regulations, and the owner shall maintain the premises, mowing grass, removing weeds and rubbish. The parking of motor vehicles on the premises shall be strictly monitored.
- (D) Bed and Breakfast Lodgings.
- (1) The minimum lot area shall be 20,000 square feet.
 - (2) No structure shall exceed thirty-five (35) feet in height.
 - (3) All structures and activity areas, except off-street parking, shall be located no less than thirty-five (35) feet from all lot lines.
 - (4) There shall be no more than one (1) ingress/egress drive onto the property. No drive shall exceed thirty-five (35) feet in width.
 - (5) Central facilities for the collection and disposal of trash shall be provided.

- (6) The maximum number of employees shall be two (2), other than occupants or owners.
 - (7) No more than two (2) adult persons shall be permitted per room.
 - (8) There shall be a maximum of four (4) guest bedrooms permitted in a Bed and Breakfast Lodging establishment.
 - (9) No receptions, private parties or any other type of guest paid activity shall be permitted.
 - (10) Signage shall be limited to one wall mounted sign no larger than four (4) square feet in area.
- (E) Community or Club Swimming Pools.
- (1) The pool is intended solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated.
 - (2) The pool and accessory structures thereto, including the areas used by the bathers, shall not be closer than 50 feet to any property line.
 - (3) If the pool is outdoors, the swimming pool and all of the area used by the bathers shall be walled or fenced to prevent uncontrolled access by children from the street or from adjacent properties. The fence or wall shall not be less than six feet in height and maintained in good condition.
- (F) Educational Institutions. *(deleted min lot area- edit to Code 7-12-10 Res.10-09)*
- (1) No structure shall exceed forty (40) feet in height.
 - (2) All structures and activity areas, except off-street parking, shall be located no less than forty (40) feet from the front lot line and no less than 100 feet from all other lot lines.
 - (3) There shall be no more than three (3) ingress/egress drives onto the property. No drive shall exceed thirty-five (35) feet in width.
 - (4) Lighting, including permitted illuminating signs, shall be arranged so as not to reflect or cause glare that would constitute a nuisance to any residential use or hazard to traffic on any public thoroughfare.

- (G) Food Truck Park.
- (1) The applicable food truck regulations set forth in Section 1133.09 shall be met.
 - (2) A food truck park shall be subject to the site plan review procedure and applicable standards as set forth in Chapter 1139.
 - (3) Fire lanes and apparatus routes shall be provided.
 - (4) Hand washing stations (not just hand sanitizer) shall be provided.
 - (5) Food truck wastewater disposal – routes for any service vehicles shall be provided.
 - (6) The wastewater disposal plan shall be provided. Cooking wastewater is not considered gray water and must be emptied daily in accordance with County and State law.
 - (7) Location and dimensions of ADA compliant public accessible routes of ingress/egress to each food truck shall be provided.
- (H) Funeral Homes.
- (1) The minimum lot area shall be 20,000 square feet.
 - (2) No structure shall exceed thirty (30) feet in height.
 - (3) All structures and activity areas, except off-street parking, shall be located no less than thirty-five (35) feet from all lot lines. Where the property abuts any residential zoning district or land use, the Planning and Zoning Commission shall decide on setback requirements taking into account surrounding properties and the Deer Park Comprehensive Plan.
 - (4) There shall be no more than one (1) ingress/egress drive onto the property. No drive shall exceed thirty-five (35) feet in width.
- (I) Home Operated Child Care. Home operated child care with between 7 and 12 children in average daily attendance may also be allowed in a residential district as a conditional use subject to the conditional use standards set forth in this Chapter.
- (1) The applicant shall be required to provide evidence proving that he or she has obtained all necessary state licenses or certifications required for providing day care for infants, pre-school, and/or school age children and copies of the state permits shall be filed with the Zoning Inspector. The conditional use permit

- shall be renewed by the Zoning Inspector on an annual basis with proof that the applicant has complied with all applicable Ohio state laws governing child care centers.
- (2) Provisions are made for off-street parking and loading facilities and such fencing, screening, and landscaping as required to prevent undue detriment to the area.
 - (3) *Review of child care centers.* Review of a proposed home operated child care operation shall include, but is not limited to the following:
 - (a) Location of the site and the site size and configuration relative to development of the adjoining area and the effect of activities on the site of the adjacent property.
 - (b) Submission of a site plan in accordance with Chapter 1139.
 - (c) Number of children to be accommodated in the center, service area, type of program, teacher-child ratios, and personnel qualifications.
- (J) Group Homes (Adult).
- (1) Adult group homes shall only be permitted as a conditional use in the PR Planned Multi-Family Residential zoning district.
 - (2) The minimum lot area shall be 30,000 square feet.
 - (3) No structure shall exceed thirty-five (35) feet in height.
 - (4) All structures and activity areas, except off-street parking, shall be located no less than thirty-five (35) feet from all lot lines.
 - (5) There shall be no more than one (1) ingress/egress drive onto the property. No drive shall exceed thirty-five (35) feet in width.
 - (6) Each individual home shall have a person or persons maintaining permanent residence in the unit to avoid shift changes and to provide the same type of use and activities otherwise typical in residences in the area. This person or persons shall be a trained, responsible individual or individuals who shall assume full responsibility for all activities within the group home.
 - (7) In order to prevent the creation of a defacto social service district and to avoid impacting a residential block or neighborhood, the Planning and Zoning Commission shall not grant a conditional use which would permit more than one

- group home within the same block or within a 1,000 foot radius of another group home.
- (8) The residential character of all structures shall be maintained. No structure approved as a group home shall have its character altered.
 - (9) A group home shall not be permitted to be constructed or operated until the agency, organization or institute supervising such home satisfies the Planning and Zoning Commission that the home and its operation will comply with all licensing or certification requirements of the appropriate State or local agency, pursuant to law.
 - (10) A group home shall not maintain lower than minimum building, fire, health and safety standards as established by State and local laws. No group home shall be occupied until a certificate of occupancy has been obtained and it is shown that all regulations are met.
 - (11) No exterior sign shall be permitted except as specifically allowed by the Planning and Zoning Commission.
 - (12) A conditional use shall be granted for a specific type of group home. The type of home shall be defined as and by the specific nature of the individuals being treated or rehabilitated. Any change in the type of home shall require a new conditional use.
- (K) Home Occupations. Home occupations shall be subject to the following conditions in addition to the use regulations of various districts:
- (1) Home occupations shall be clearly incidental and subordinate to the use of the property for residential purposes and shall be wholly conducted within the dwelling.
 - (2) No more than the equivalent of twenty-five percent of the gross floor area of any dwelling shall be utilized for a home occupational use.
 - (3) The external appearance of the structure in which the home occupation is conducted shall not be altered.
 - (4) There shall be no outside storage of any kind related to the home occupational use and only commodities made on the premises or commodities, which are considered accessory to the services provided (i.e. shampoo in a beauty salon), may be sold on the premises. No display of the products shall be visible from the street.

- (5) All parking requirements of a home occupation shall be provided for by utilizing either existing residential driveways or on-street parking spaces. No expansion of off-street parking areas shall be permitted in connection with a home occupation use.
 - (6) No equipment, process, materials, or chemicals which create offensive noises, vibration, smoke, dust, odor, heat, glare, x-rays, radiation, or electrical disturbances shall be utilized in the home occupation.
 - (7) Not more than one person, who is not a resident of the premises, may participate in the home occupation as an employee or volunteer.
 - (8) No more than one home occupation shall be permitted within any single dwelling unit.
 - (9) Delivery of any materials necessary for a home occupation shall be limited to automobiles, light duty pick-up trucks or vans.
 - (10) Hours of operation for a home occupation that entails client visits or incoming deliveries is restricted to no earlier than 8:00 a.m. and no later than 8:00 p.m. each day of the week, except that operation on Sundays is restricted to 12:00 p.m. to 6:00 p.m.
 - (11) No sign, other than one non-illuminated nameplate, two square feet in area and mounted flat on the front face of the dwelling or on a driveway lamppost, shall be erected or maintained on the premises.
 - (12) The Zoning Inspector may waive the requirement for public notice and hearing as set forth in this Chapter for those home occupations that will not have an adverse impact upon adjacent properties and surrounding areas.
- (L) Hospitals.
- (1) The minimum lot area shall be five (5) acres
 - (2) No structure shall exceed 70 feet in height.
 - (3) All structures and activity areas, except off-street parking, shall be located no less than 100 feet from the front lot line and no less than 40 feet from all other lot lines. Where the property abuts any residential zoning district or land use, the Planning and Zoning Commission shall decide on setback requirements taking into account surrounding properties and the Deer Park Comprehensive Plan.

- (4) Loading and unloading areas shall be a minimum of 75 feet from any residential use.
- (M) Nursery Schools/Day Care Facilities.
- (1) The minimum lot area shall be 10,000 square feet.
 - (2) No structure shall exceed thirty (30) feet in height.
 - (3) All structures and activity areas, except off-street parking, shall be located no less than fifty (50) feet from the front lot line and no less than forty (40) feet from all other lot lines. Where the property abuts any residential zoning district or land use, the Planning and Zoning Commission shall decide on setback requirements taking into account surrounding properties and the Deer Park Comprehensive Plan.
 - (4) There shall be no more than one (1) ingress/egress drive onto the property. No drive shall exceed thirty-five (35) feet in width.
 - (5) Outdoor play areas shall be permitted in the side and rear yards only and shall be enclosed with a fence or wall of a minimum of five (5) feet in height.
 - (6) Unloading and loading of children from vehicles shall only be permitted in the approved parking area of the facilities. An on-site drop off area sufficient to accommodate four (4) vehicles shall be provided.
- (N) Private Recreation Areas.
- (1) No structure shall exceed thirty-five (35) feet in height.
 - (2) All structures and activity areas, except off-street parking, shall be located no less than seventy-five (75) feet from all lot lines.
 - (4) There shall be no more than two (2) ingress/egress drives onto the property. No drive shall exceed thirty-five (35) feet in width.
 - (5) Only retail uses which are customarily accessory or incidental to the main recreational use shall be permitted and shall include such uses as refreshment stands, souvenir stands and concession stands.
 - (6) If a swimming pool is included in any private recreation area, the conditional use standards for community or club swimming pools shall also be met.

- (O) Churches or Religious Places of Worship.
- (1) The minimum lot area shall be 30,000 square feet with a minimum lot width of 125 feet.
 - (2) The main structure of a religious place of worship or any other building shall not exceed forty (40) feet in height with the exception of a steeple or tower, which may not exceed sixty (60) feet in height.
 - (3) All structures and activity areas, except off-street parking, shall be located no less than thirty-five (35) feet from all lot lines.
 - (4) There shall be no more than two (2) ingress/egress drives onto the property. No drive shall exceed thirty-five (35) feet in width.
 - (5) Such uses shall be encouraged to locate adjacent to parks and other non-residential uses such as schools and shopping facilities where use could be made of joint parking facilities.
- (P) Substantially Similar Uses.
- (1) All applications for zoning permits for a building or use not specifically listed in this Zoning Code shall be subject to approval by the Planning and Zoning Commission in accordance with the following conditions:
 - (a) Such use is not specifically listed in any other zoning district as a permitted use, conditional use or accessory use.
 - (b) Such use is similar in nature and has the same characteristics of a use listed in this Zoning Code.
 - (2) If the Planning and Zoning Commission determines that the subject use is similar to a listed use, the subject use shall be required to conform to the same regulations as the listed use.
- (Q) Tattoo Parlors and Body Piercing Establishments
- (1) Each operator of a business that offers tattooing or body piercing services shall do all of the following:
 - (a) Maintain procedures for ensuring that the individuals who perform tattooing or body piercing procedures are adequately trained to perform the procedures properly;

- (b) With respect to tattooing services, maintain written records that include the color, manufacturer, and lot number of each pigment used for each tattoo performed;
 - (c) Comply with the safety and sanitation requirements for preventing transmission of infectious diseases, as established in rules adopted under section 3730.10 of the Ohio Revised Code;
 - (d) Require the individuals who perform tattooing and body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures by using methods that meet the disinfection and sterilization requirements established in rules adopted under section 3730.10 of the Ohio Revised Code;
 - (e) Ensure that weekly tests of the business's heat sterilization devices are performed to determine whether the devices are functioning properly. In having the devices tested, the operator of the business shall use a biological monitoring system that indicates whether the devices are killing microorganisms. If a test indicates that a device is not functioning properly, the operator shall take immediate remedial action to ensure that heat sterilization is being accomplished. The operator shall maintain documentation that the weekly tests are being performed. To comply with the documentation requirement, the documents must consist of a log that indicates the date on which each test is performed and the name of the person who performed the test or, if a test was conducted by an independent testing entity, a copy of the entity's testing report. The operator shall maintain records of each test performed for at least two years.
- (2) Each operator of a business that offers ear piercing services performed with an ear piercing gun shall require the individuals who perform the ear piercing services to disinfect and sterilize the ear piercing gun by using chemical solutions that meet the disinfection and sterilization requirements established in rules adopted under section 3730.10 of the Ohio Revised Code.
 - (3) Hours of operation are restricted to 8:00 a.m. until 9:00 p.m.
 - (4) As a condition of approval, each operator of a business that offers tattooing or body piercing services shall provide the Planning and Zoning Commission with evidence documenting the attainment of all required Ohio State Board of Health approvals as required to offer tattooing and body piercing services in the state.

§ 1149.06 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

- (A) In granting approval for any conditional use, the Planning and Zoning Commission may prescribe appropriate conditions and safeguards in conformance with this zoning code. Any violation of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a punishable violation of this zoning code. Examples of appropriate conditions and safeguards include:
- (1) Larger buffer areas between the proposed conditional use and adjacent property.
 - (2) Greater yard requirements.
 - (3) Limits on the location or illumination of signs.
 - (4) Limits on where parking areas may be located.

§ 1149.07 ADDITION TO OR EXPANSION OF A CONDITIONAL USE.

Additions to or expansions of approved conditional uses shall not be undertaken until a new conditional use permit application reflecting those additions or expansions is granted by the Planning and Zoning Commission. The conditional use permit application referred to in this section shall comply with the procedural and substantive requirements of this Chapter.

§ 1149.08 EXPIRATION OF CONDITIONAL USES

- (A) A conditional use permit shall be deemed to authorize only one (1) conditional use and such conditional use permit shall automatically expire if, for any reason, one (1) of the following occurs:
- (1) The conditional use has ceased by discontinuance or abandonment for a period of more than a continuous six (6) month period;
 - (2) Such use violated the conditions established in this Chapter; or
 - (3) Change of ownership of the property.
- (B) Once a conditional use expires, the owner will have to have the conditional use reviewed by Planning and Zoning Commission according to this Chapter to re-establish the conditional use.

Chapter 1151 Nonconforming Use Regulations

§ 1151.01 NONCONFORMING USE STANDARDS.

- (A) The lawful use of any dwelling, building, or structure on any lot or premises existing and lawful at the time of the enactment of this Zoning Code, supplement, or amendment may continue although such use does not conform with the provisions of this Zoning Code or any supplement or amendment made after the enactment of this Zoning Code. A nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification.
- (B) In the event that a nonconforming use of any dwelling, building, or structure and of any lot or premises is voluntarily discontinued for a continuous period of six (6) months, any future use of the lot, building, or structure shall be in conformity with the provisions of this Zoning Code.
- (C) No nonconforming building or structure shall be moved in whole or in part to any other location on the lot, or to any other property, unless every portion of such building or structure is made to conform to all the regulations of the zone in which it is located.
- (D) When a nonconforming building or structure has been damaged by explosion, fire, act of God, or the public enemy to the extent of more than 60% of its fair market value, it shall not be restored or reconstructed except in conformity with regulations of this Zoning Code except as provided below:
 - (1) Legal nonconforming residential dwelling structures damaged in excess of 60% of their fair market value as described in 1151.01(D) shall be permitted to be rebuilt as the same category of dwelling type (i.e. a single family dwelling may not be rebuilt as a multiple family dwelling).
 - (2) Any rebuilt residential dwelling structure shall not exceed the original dwelling's total livable and non-livable square footage area nor exceed the original structure height.
 - (3) Any rebuilt residential dwelling structure shall not encroach beyond the original building setbacks.
- (E) When a nonconforming use qualifies for reconstruction through damage, a building permit shall be secured for that purpose and reconstruction shall be diligently completed without delay. Failure to reconstruct within one (1) year of damage revokes the right to the nonconforming use and the premises shall conform thereafter to the established district regulations.

- (F) A structure or building nonconforming as to use, height and yard requirements or lot area per dwelling unit shall not be added to or enlarged in any manner unless such structure or building, including such addition or enlargement, is made to conform to the use, height, yard and area requirements of this Zoning Code. *(1151.01 Revision Adopted 1/11/2010)*

§ 1151.02 NONCONFORMING RESIDENTIAL STRUCTURES.

If any residential structure was built prior to the adoption of this Zoning Code and is considered to have nonconforming setbacks, additions to, or enlargements of an existing structure which presently encroach upon required side or rear yards may be permitted if the proposed addition or enlargement follows the existing structure setbacks and the addition or enlargement will not exceed any other lot lines.

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§ 1151.03 NONCONFORMING LOTS.

- (A) In a district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Zoning Code, notwithstanding limitations imposed by other provisions of this Zoning Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district.
- (B) If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Zoning Code, and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Zoning Code, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Zoning Code, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this Zoning Code.

§ 1151.04 NONCONFORMING USES OF LAND.

Where, at the time of adoption of this Chapter lawful uses of land exist which would not be permitted by the regulations imposed by this Chapter, the uses may be continued so long as they remain otherwise lawful, provided:

- (A) No nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Chapter;
- (B) No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by those uses at the effective date of adoption or amendment of this Chapter;
- (C) No additional structure not conforming to the requirements of this Chapter shall be created in connection with a nonconforming use of land.

§ 1151.05 REPAIRS AND MAINTENANCE.

Nothing contained in this Chapter shall be deemed to prevent the strengthening or restoring to a safe and sanitary condition of any building or part thereof declared to be unsafe or unsanitary by the Zoning Inspector or any other official charged with protecting the public safety, upon order of that official.

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Chapter 1153 Supplemental Regulations

§ 1153.01 GENERAL.

The purpose of supplementary zoning regulations is to set specific conditions for various uses, classification of uses, or areas where problems are frequently encountered.

§ 1153.02 CONVERSION OF DWELLINGS TO MORE UNITS.

A residence shall not be converted to accommodate an increased number of dwelling units unless:

- (A) The yard dimensions still meet the yard dimensions required by the zoning regulations for new structures in that district.
- (B) The lot area per dwelling equals the lot area requirements for new structures in that district.
- (C) The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district.
- (D) The conversion is otherwise in compliance with this Zoning Code (e.g., property is zoned for two-family or multiple-family use) and all other relevant codes and ordinances.

§ 1153.03 PRIVATE RESIDENTIAL SWIMMING POOLS.

No private residential swimming pool, exclusive of “Portable/Blow-up/Wading/Kiddie Pools”, shall be allowed in any district, except as an accessory use and unless it complies with all the following conditions and requirements:

- (A) The pool is to be used solely for the enjoyment of the occupants and their guests of the principal use of the property on which it is located.
- (B) The pool may not be located in the front yard or side yard area; nor, closer than five feet (5') to a rear or side lot line.
- (C) Every swimming pool, including existing pools, shall be completely enclosed by a fence or other permissible barrier of sturdy construction, the top of which shall not be less than 48" inches (4 feet) above the level of the ground where located, which shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such barrier. Rails are not permitted in place of a

wall or fence. Such fence or other barrier shall be of conventional design and each gate in it shall be provided with a self closing, self latching gate with secure lock and shall be kept locked at all times, unless such pool is under the immediate observation and supervision of a responsible person. The latch shall not be lower than 48" inches and located on the inside of the gate, not accessible to a small children. In the case of pools which are partially or completely above-ground, in lieu of a fence or other permissible barrier, the outside structure of the pool wall may constitute part of the conventional barrier but must have a permissible topper-barrier, so that the complete barrier, measured from the adjacent grade or the highest point of access to the pool, is not less than 48" inches or four feet (4'). The steps or ladder can be designed to be secured, locked or removed to prevent access, or the steps or ladder can be surrounded by and completely enclosed by a fence or other permissible barrier with gate as stated above. Temporary, portable, blow-up and/or wading pools are excluded from this option. Spas, Hot Tubs, and similar water recreational devices, having a span of 9' or less at the widest point, shall be locked with a top specifically made from the manufacturer of the spas or hot tubs, in lieu of a fence, whenever not in the immediate supervision of a responsible adult. Spas / Hot tubs and similar water recreational devices having a span greater than 9' at any point, shall be considered a swimming pool and must adhere to the swimming pool guidelines. No part of any barrier shall be located between the building setback line as established by this zoning ordinance and the street on which the lot or parcel abuts. (*Ord. 2021-10, passed 5-10-2021.*)

- (D) Required fencing and/or other permitted barrier must be in place within twenty-four hours after the swimming pool has been constructed or filled.
- (E) Prior to the construction or erection of any private residential swimming pool, the applicant shall obtain a zoning permit under Chapter 1107, and all permit fees shall be paid.
- (F) Portable, Blow-up, Wading or Kiddie Pools shall meet all of the following requirements.
 - (1) Pools that are only capable of holding eighteen inches (18") or one and one-half foot (1 ½ ') of water or less, at the deepest point, and are nine feet (9') or less in water surface diameter at the widest point, or less than sixty-five (65) square feet in surface area;
 - (2) Pools that are not erected, whether containing water or not, on one's property, when not wholly enclosed inside of a building, except for between and including the dates of May 1st through September 30th of the same calendar year;
 - (3) Shall not create any safety or health hazards. It is solely the responsibility of the property owner that these types of pools are not a safety hazard or do not become a health hazard;

- (4) Are not permitted in front yards;
- (5) Are not equipped with a water recirculating system or involve structural materials.
- (6) It may be required to be removed or required to adhere to the swimming pool regulations if all criteria are not met as determined by the Zoning Inspector. No zoning permit required.

§ 1153.04 TEMPORARY BUILDINGS.

Temporary buildings, construction trailers, equipment and materials used in conjunction with construction work only, may be permitted in any district during the period construction work is in progress; but such temporary facilities shall be immediately removed upon completion of the construction work. Storage of such facilities or equipment beyond the completion date of the project shall require a zoning permit authorized by the Planning and Zoning Commission.

§ 1153.05 PARKING OF RECREATIONAL VEHICLES.

- (A) **Parking of Recreational Vehicles.** The parking of any recreational vehicle in any residential district shall be prohibited, except that one (1) recreational vehicle may be parked or stored in a garage or other accessory building or on a paved surface in a rear yard or a side yard in any residential district. No occupancy for human habitation shall be maintained or business conducted therein while such recreational vehicle is so parked or stored. The wheels or any similar transporting devices of any such trailer permitted within a residential district shall not be removed, nor shall any trailer be temporarily or permanently affixed to the ground or attached to something having a temporary or permanent location on the ground.
 - (1) For the purposes of this Section, recreational vehicle shall be defined as any of the following: any privately owned boat, boat trailer, folding tent trailer, personal water craft, motorized home, pick-up camper, snowmobile, travel trailer, a three or four wheel all terrain vehicle or other similar equipment.
- (B) **Temporary Parking Permitted.** The temporary parking of one (1) recreational vehicle in any residential district is permitted for a period not to exceed seventy-two (72) continuous hours within any single calendar month.
- (C) **Non-Residential Zoning Districts.** The parking of a recreational vehicle in any non-residential zoning district is prohibited unless the recreational vehicle is an integral part of a permitted or conditionally permitted land use within the district.

§ 1153.06 FENCE REGULATIONS.

Fences, walls, plant material, and similar screening devices located in any front yard area may not exceed three (3) feet in height. Fences and walls located in any side yard or rear yard area shall not exceed six (6) feet in height.

- (A) All bamboo, electric and barbed wire fences shall be prohibited.
- (B) All fences shall be properly maintained by the owners of the property on which they are located. Such maintenance shall include painting, cleaning, and structural soundness in the case of a fence, wall, or other man-made object; and trimming, pruning, cutting, and other landscaping in the case of a hedge or other planting so that there is no aesthetic detriment to the surrounding area.
- (C) Fence Permits. All fences, regardless of type or height, require an approved fence permit on a form provided by the Zoning Inspector. Fence permits shall be reviewed for compliance to these regulations by the Zoning Inspector.
- (D) Measurement Standards. Fence height shall be measured as the vertical distance between the grade of the ground abutting the fence and the top edge of the fence material including any ornamental or decorative extensions of a fence. For fences on sloping ground or on retaining walls, solid fence height of six (6) feet may be permitted as measured from the up-slope property so long as a total height, inclusive of any retaining wall, does not exceed ten (10) feet as measured from the down-slope property.
- (E) The use of slats or other similar screening materials in a fence to meet any screening requirement in this Zoning Code shall be prohibited.

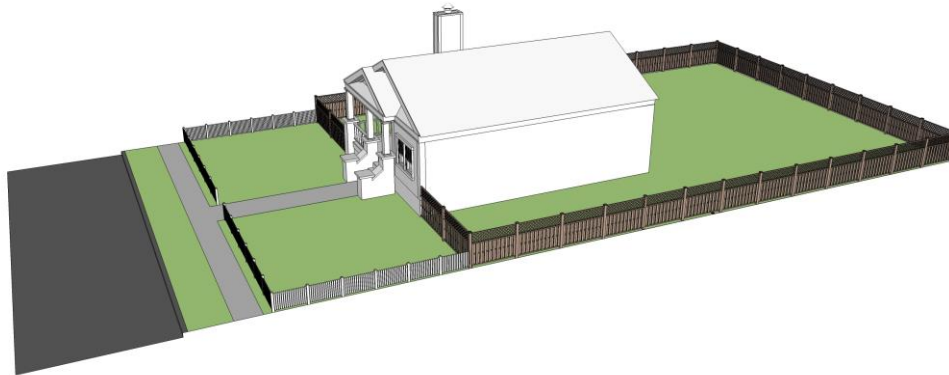


Illustration showing allowable residential fencing locations for both a 3 ft. maximum fence in the front yard area and a 6 ft. maximum fence in a side and rear yard for a mid-block lot.

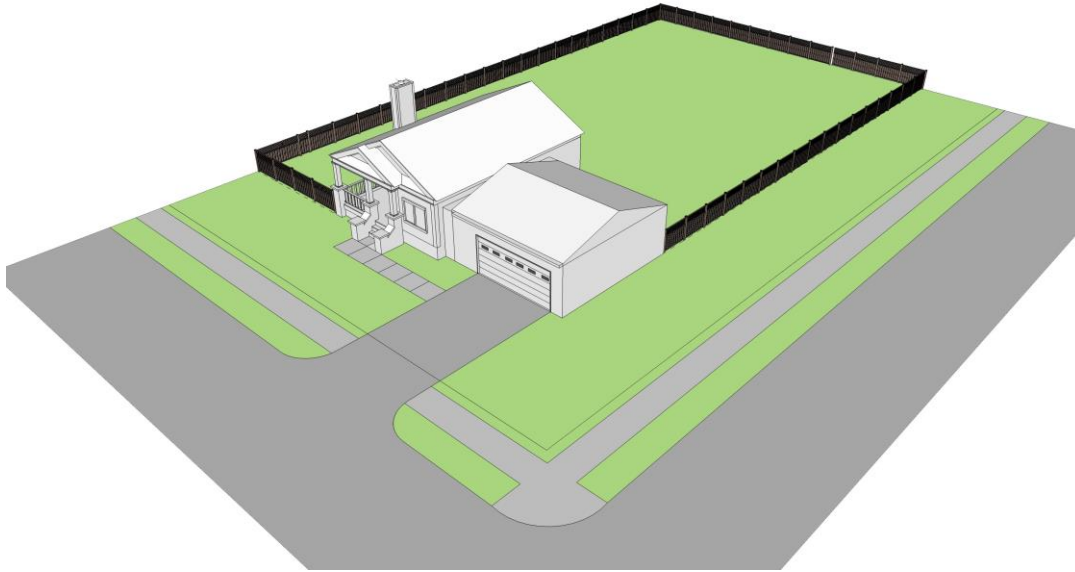


Illustration showing allowable residential fencing locations for both a 6 ft. high maximum fence the side and rear yard of a corner lot.

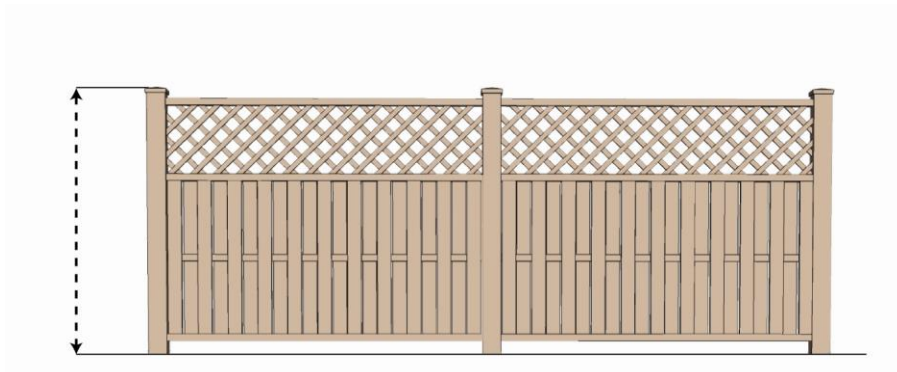


Illustration showing the standard for measuring the height of a fence.

§ 1153.07 ARCHITECTURAL PROJECTIONS.

Open structures such as fireplace chases, porches, canopies, balconies, platforms, carports, covered patios, and similar architectural projections shall be considered parts of the building to which they are attached and shall not project into the required minimum front, side, or rear yards.

§ 1153.08 PERFORMANCE STANDARDS.

It is the purpose of the performance standards to provide for the peaceful and quiet enjoyment of property and to set forth regulations so that no use shall be constructed or operated so as to create a nuisance or to create any noxious, objectionable or other undesirable effect on persons or property outside of the lot line of said use. Materials, uses and products produced shall be adequately housed, shielded or screened so that the health, safety and welfare of persons occupying the property or adjacent properties are not jeopardized.

- (A) **Applicability and Compliance.** The performance standards are applicable to all land uses in all zoning districts within the City, and both initial and continued compliance is required. Any condition or land use falling under the jurisdiction of the standards of this Zoning Code and not in conformance with these standards shall be brought into full compliance immediately upon discontinuance of the existing use of land, structure or building. Any change in the principal use of land, a structure or a building shall constitute a discontinuance and be fully subject to these standards and provisions.
- (B) **Noise.** No business or commercial operation or residential use shall create a persistent or recurring noise which is a nuisance. No business or commercial operation or residential use may raise the noise level more than two decibels above the normal background level (measured at any lot line).
- (C) **Odors.** No use shall cause or allow the emission of odorous air contaminants from any source sufficient to result in detectable odors beyond any lot line on which the use occurs.
- (D) **Vibrations.** Every use shall be so operated that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on or outside the property line of the property on which the use is located.
- (E) **Glare and Heat.** Any operation producing intense light or heat, including high temperature processes such as combustion or welding, shall not be visible or felt beyond any lot line bounding the property wherein the use is conducted. All exterior lighting on private property shall be positioned as to extend glare away from adjacent properties or public right-of-ways.

- (F) Air and Water Pollutants. The emission of air and water pollutants shall not violate the standards and regulations of any local, State or Federal agency having jurisdiction in this matter.
- (G) Hazardous Materials. The storage, utilization and manufacture of solid, liquid and gaseous chemicals and other materials shall be permitted subject to the standards and regulation of any local, State or Federal agency having jurisdiction in this matter.
- (H) Smoke. The emission of smoke or dust by any land use in an amount sufficient to create a general nuisance to adjoining properties shall be prohibited.
- (I) Enforcement. In enforcing Performance Standards on existing uses, the Zoning Inspector may issue a written Notice of Violation to an alleged violator. The Zoning Inspector shall, before issuing such Notice, make technical determinations of any probable violation when such determinations can be made using equipment and trained personnel normally available to the City or obtainable without extraordinary expense. In other cases, however, technical complexity or extraordinary expense may make it unreasonable for the City to maintain personnel or equipment for making determinations of violation prior to issuing a Notice of Violation. In such cases, a Notice of Violation may be issued when the Zoning Inspector has other reason to believe there is probable violation. The Zoning Inspector shall give Notice of Violation by any means that ensures a signed receipt for such notice to the party responsible for the alleged violation. The notice shall describe the alleged violation and the results of technical determinations or the other reasons why the Zoning Inspector believes there is a violation.
 - (1) Notice Contents. The notice shall require either an answer or correction of the alleged violation to the satisfaction of the Zoning Inspector and within a time limit he or she shall specify in the Notice. The Notice shall also state that failure to provide an answer or correct the alleged violation within this time limit shall constitute admission of a violation. The Notice shall further state that, if technical determinations have not already been made, upon request of the alleged violator such determinations will be made. If a violation is found as a result of such determinations, the cost of the determinations will be assessed against the properties or parties responsible in addition to any other penalties provided for. If no violation is found, the City shall pay the cost of the determinations.

§ 1153.09 MOBILE STORAGE STRUCTURES.

- (A) A portable on-demand storage structure may be utilized as a temporary structure within the city when in compliance with the standards of this subsection upon the issuance of a Temporary Structure Permit from the City Zoning Inspector. Any use of such structures within the city not in compliance with this subsection shall be unlawful.

- (B) The term "portable on-demand storage structures" (POD) shall be defined to be: any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements.
- (C) POD Standards.
- (1) A POD storage structure may be located as a temporary structure on property within the city for a period not exceeding thirty (30) days in duration from time of delivery to time of removal. A POD structure shall not be located in the front yard of any lot within the city.
 - (2) Permit Required. Permits for such temporary uses and structures may be issued by the Zoning Inspector after submission of a completed Temporary Storage Structure Permit Application and payment of the permit application fee. An approved permit is valid for the specified 30 day time frame only. Such POD structure may not be located on a specific property more than three (3) times in any given calendar year period. Applicants seeking to extend the time frame consistent with the provisions in this subsection must complete a new application and submit a new permit application fee payment for each time period sought. No POD may be stored for more than a continuous 90 day period.
 - (3) No more than one (1) POD storage structures may be located on a specific piece of property within the city at one time;
 - (4) Such structure may not exceed eight feet six inches in height, 10 feet in width or 20 feet in length.
 - (5) All such temporary structures shall comply with the appropriate building code provisions and such other requirements as are imposed by the City or the Chief Building Official to ensure the safety of the public.
- (D) It shall be the obligation of the owner of the property which the POD is located or the user of such temporary structure to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the temporary structure. In the event of high winds or other weather conditions in which such structure may become a physical danger to persons or property, the appropriate law enforcement officers may require the immediate removal of such temporary structure.
- (E) Any portable on-demand storage structure which is not removed at the end of the time for which it may lawfully remain in place, or immediately upon the direction of a law enforcement officer for removal of such temporary structure for safety reasons, may be

removed by the city immediately, without notice, and the cost of such removal, together with the cost of administration of its removal, may be assessed against the property on which the temporary structure was located and may be filed as a lien against such property by the City. Such lien shall be superior in priority to all other liens or encumbrances upon the property, including the lien of a mortgage, and shall be equal in priority to the lien of ad valorem taxes.

§ 1153.10 PARKING AND STORAGE OF UTILITY TRAILERS.

The parking or storage of utility trailers within the front yard area of a lot is prohibited in any residential zoning district. Utility trailers shall be defined as any trailer used to transport work related or non-work related equipment, materials or any other items.

§ 1153.11 DOG RUNS.

(A) Dog runs shall be permitted in R-1 and R-2 residential districts subject to the conditions set forth in this Section. A dog run shall be defined as an area enclosed on one or more sides by a fence with either a concrete, gravel or paved floor, intended for holding dogs or other animals for any length of time.

- (1) Dog runs shall be built in rear yards only.
- (2) Dog runs are prohibited in side yards.
- (3) Dog runs shall be a maximum of one hundred (100) square feet.
- (4) Dog runs shall be located a minimum of five (5) feet from all property lines.
- (5) Dog runs shall be a maximum of six (6) feet in height.

§ 1153.12 ADA RAMPS.

ADA ramps may be located in any required front, side, and rear yard setbacks, without the need for a variance. This provision is contingent upon the applicant providing documentation from a licensed doctor stating that the ADA ramp is necessary. Once the ramp is no longer medically needed, the ADA ramp is to be removed. The applicant shall obtain all necessary building permits prior to installation of the ADA ramp. *(amended per Ordinance No 2019-15; revision to code adopted on 6/24/2019)*

(192 – A)

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Chapter 1155 Wireless Telecommunication Facilities**§ 1155.01 SEVERABILITY.**

- (A) If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Chapter and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.
- (B) Any special use permit issued under this Chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the City.

§ 1155.02 DEFINITIONS.

For purposes of this Chapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word shall is always mandatory, and not merely directory.

- (A) “Accessory Facility or Structure” means an accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
- (B) “Antenna” means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such signals shall include, but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS), microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the City's siting, building and permitting authority.
- (C) “Applicant” means any wireless service provider submitting an application for a special use permit for wireless telecommunications facilities.
- (D) “Application” means all necessary and appropriate documentation that an applicant submits in order to receive a special use permit for wireless telecommunications facilities.

- (E) “City” means the City of Deer Park Ohio.
- (F) “Co-location” means the use of a tower or structure to support antennae for the provision of wireless services without increasing the height of the tower or structure.
- (G) “Commercial Impracticability” or “Commercially Impracticable” means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercially impracticable” and shall not render an act or the terms of an agreement “commercially impracticable.”
- (H) “Completed Application” means an application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.
- (I) “Council” means the City Council of the City of Deer Park Ohio.
- (J) “FAA” means the Federal Aviation Administration, or its duly designated and authorized successor agency.
- (K) “FCC” means the Federal Communications Commission, or its duly designated and authorized successor agency.
- (L) “Height” means, when referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.
- (M) “NIER” means non-ionizing electromagnetic radiation.
- (N) “Person” means any individual, corporation, estate, trust, partnership, joint stock company, association of two or more persons having a joint common interest, or any other entity.
- (O) “Personal Wireless Facility.” See definition for A Wireless Telecommunications Facilities.
- (P) “Personal Wireless Services” or “PWS” or “Personal Telecommunications Service” or “PCS” shall have the same meaning as defined and used in the 1996 Telecommunications Act.
- (Q) “Telecommunication Site.” See definition for “Wireless Telecommunications Facilities.”

- (R) “Special Use Permit” means the official document or permit by which an applicant is allowed to construct and use wireless telecommunications facilities as granted or issued by the City.
- (S) “State” means the State of Ohio.
- (T) “Stealth” or “Stealth Technology” means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
- (U) “Telecommunications” means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
- (V) “Telecommunications Structure” means a structure used in the provision of services described in the definition of “Wireless Telecommunications Facilities.”
- (W) “Temporary” means temporary in relation to all aspects and components of this Chapter; something intended to, or that does, exist for fewer than 90 days.
- (X) “Wireless Telecommunications Facilities” includes a “Telecommunications Tower” and “Tower” and “Telecommunications Site” and “Personal Wireless Facility” and means a structure, facility or location designed, or intended to be used as, or used to support, antennas or other transmitting or receiving devices. This includes, without limit, towers of all types and kinds and structures that employ camouflage technology, including but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the City's siting, building and permitting authority, excluding those used exclusively for the City's fire or police or exclusively for private, noncommercial radio and television reception, private citizen's bands, amateur radio and other similar noncommercial telecommunications where the height of the facility is below the height limits set forth in this Chapter.

§ 1155.03 OVERALL POLICY AND DESIRED GOALS FOR SPECIAL USE PERMITS.

In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the City's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Chapter, the City hereby adopts an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

- (A) Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities;
- (B) Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent;
- (C) Ordinances promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers;
- (D) Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

§ 1155.04 SPECIAL USE PERMIT APPLICATION AND OTHER REQUIREMENTS.

- (A) All applicants for a special use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this section. The City Planning and Zoning Commission is the officially designated agency or body of the City to whom applications for a special use permit for wireless telecommunications facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking special use permits for wireless telecommunications facilities. The City may, at its discretion, delegate or designate other official agencies of the City to accept, review, analyze, evaluate and make recommendations to the Planning and Zoning Commission with respect to the granting or not granting, recertifying or not recertifying or revoking special use permits for wireless telecommunications facilities.
- (B) An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth

and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the City, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

- (C) Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the City.
- (D) The applicant shall include a statement in writing:
 - (1) That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the City in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable City, State and Federal laws, rules, and regulations;
 - (2) That the construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the State.
 - (a) No wireless telecommunications facilities shall be installed or constructed until the application is reviewed and approved by the City, and the special use permit has been issued.
 - (b) No tower owner or manager shall be permitted to submit an application for a special use permit for a tower if the tower owner does not have a signed agreement committing a commercial service provider to occupy space on the tower.
 - (3) All applications for the construction or installation of new wireless telecommunications facilities shall contain the information hereinafter set forth. The application shall be signed by an authorized individual on behalf of the applicant. Where a certification is called for, such certification shall bear the signature and seal of a professional engineer licensed in the State. The application shall include the following information:
 - (a) Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;
 - (b) The name, address and phone number of the person preparing the report;

- (c) The name, address, and phone number of the property owner, operator, and applicant, and to include the legal form of the applicant;
- (d) The postal address and tax map parcel number of the property;
- (e) The Zoning District or designation in which the property is situated;
- (f) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;
- (g) The location of the nearest residential structure;
- (h) The location, size and height of all structures on the property which is the subject of the application;
- (i) The location, size and height of all proposed and existing antennae and all appurtenant structures;
- (j) The type, locations and dimensions of all proposed and existing landscaping, and fencing;
- (k) The number, type and design of the tower(s) and antenna(s) proposed and the basis for the calculations of the tower's capacity to accommodate multiple users;
- (l) The make, model and manufacturer of the tower and antenna(s);
- (m) A description of the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- (n) The frequency, modulation and class of service of radio or other transmitting equipment;
- (o) The actual intended transmission and the maximum effective radiated power of the antenna(s);
- (p) The direction of maximum lobes and associated radiation of the antenna(s);
- (q) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC;

- (r) Certification that the proposed antenna(s) will not cause interference with other telecommunications devices;
 - (s) A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;
 - (t) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed wireless telecommunications facilities on the proposed site.
- (E) In the case of a new tower, the applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the City. Copies of written requests and responses for shared use shall be provided to the City in the application, along with any letters of rejection, stating the reason for rejection. Attachments are designed and will be constructed to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads.
- (F) The applicant shall certify that the wireless telecommunications facilities will be effectively grounded and bonded so as to protect persons and property, and installed with appropriate surge protectors.
- (G) An applicant may be required to submit an Environmental Assessment Analysis and a visual addendum. Based on the results of the analysis, including the visual addendum, the City may require submission of a more detailed visual analysis. The scope of the required environmental and visual assessment will be reviewed at the pre-application meeting.
- (H) The applicant shall furnish a Visual Impact Assessment, which shall include:
- (1) A “Zone of Visibility Map” which shall be provided in order to determine locations from which the tower may be seen.
 - (2) Pictorial representations of before and after views from key viewpoints both inside and outside of the City, as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance

will be provided, concerning the appropriate key sites at a pre-application meeting.

- (3) An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
- (I) The applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related facilities and structures of the proposed wireless telecommunications facilities.
- (J) Any and all representations made by the applicant to the City on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the City.
- (K) All utilities at a wireless telecommunications facilities site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
- (L) All wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to be the least visually intrusive reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the wireless telecommunications facility.
- (M) Both the wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings. This shall include the utilization of stealth or concealment technology as may be required by the City.
- (N) At a telecommunications site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- (O) A person who holds a special use permit for wireless telecommunications facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless telecommunications facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and

responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include but are not limited to construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

- (P) A holder of a special use permit granted under this Chapter shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.
- (Q) An applicant shall submit to the City the number of completed applications determined to be needed at the pre-application meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities and to the Zoning Inspector.
- (R) The applicant shall examine the feasibility of designing a proposed tower to accommodate future demand for at least five additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least five additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
 - (1) The foreseeable number of FCC licenses available for the area;
 - (2) The kind of wireless telecommunications facilities site and structure proposed;
 - (3) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
 - (4) Available space on existing and approved towers.
- (S) The owner of the proposed new tower and his or her successors in interest shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:
 - (1) Respond within 60 days to a request for information from a potential shared-use applicant;
 - (2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;

- (3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to a pro rata share of the cost of site selection, Planning and Zoning, project administration, land costs, site design, construction and maintenance financing, return on equity less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- (T) Failure to abide by the conditions outlined above may be grounds for revocation of the special use permit for the tower.
- (U) There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the City's consultants to prepare for and attend the pre-application meeting will be borne by the applicant.
- (V) The holder of a special use permit shall notify the City of any intended modification of a wireless telecommunication facility and shall apply to the City to modify, relocate or rebuild a wireless telecommunications facility.
- (W) In order to better inform the public, in the case of a new telecommunication tower, the applicant shall, prior to the public hearing on the application, hold a balloon test. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a 3-foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the applicant 7 and 14 days in advance of the first test date in a newspaper with a general circulation in the City. The applicant shall inform the City, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 a.m. and 4:00 p.m. on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday.
- (X) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Administration Regulation Part 77. This requirement shall be for any new tower or for an existing structure or building where the application increases the height of the structure or building. If this analysis determines that the FAA must be contacted, then all filings with the FAA, all responses from the FAA, and any related correspondence shall be provided in a timely manner.

§ 1155.05 LOCATION.

- (A) Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, (1) being the highest priority and (3) being the lowest priority.
- (1) On existing towers or other structures without increasing the height of the tower or structure;
 - (2) On City-owned properties located in any zoning district;
 - (3) On properties in areas zoned for (PO) planned office use;
- (B) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.
- (C) An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the City why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.
- (D) Notwithstanding the above, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants, and will not have a deleterious effect on the nature and character of the community and neighborhood.
- (E) The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
- (F) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an application for any of the following reasons:
- (1) Conflict with safety and safety-related codes and requirements;

- (2) Conflict with the historic nature or character of a neighborhood;
- (3) The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
- (4) The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the City, or employees of the service provider or other service providers;
- (5) Conflicts with the provisions of this Chapter.

§ 1155.06 SHARED USE OF WIRELESS TELECOMMUNICATIONS FACILITIES AND OTHER STRUCTURES.

- (A) Locating on existing towers or other structures without increasing the height shall be preferred by the City, as opposed to the construction of a new tower. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within 4 miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure cannot be used.
- (B) An applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.
- (C) Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

§ 1155.07 HEIGHT.

- (A) The applicant shall submit documentation justifying the total height of any tower, facility and/or antenna and the basis therefore. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.
- (B) The maximum permitted height of a new tower shall be 140 feet, based on 6 co-located antenna arrays requiring 10 feet of vertical space each, and an ambient tree height of 80 feet.
- (C) No tower constructed after the effective date of this Chapter, including allowing for all attachments, shall exceed that height which shall permit operation without required

artificial lighting of any kind in accordance with Municipal, City, State, and/or any Federal statute, law, local law, City ordinance, code, rule or regulation.

§ 1155.08 APPEARANCE AND VISIBILITY.

- (A) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
- (B) Towers shall be galvanized and painted with a rust-preventive paint of a non-contrasting gray or similar color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Chapter.
- (C) Lights, beacons, or strobes of any kinds shall not be permitted on any tower, antenna, and equipment unless required by the Federal Aviation Administration.

§ 1155.09 SECURITY.

All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- (A) All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
- (B) Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

§ 1155.10 SIGNAGE.

Wireless telecommunications facilities shall contain a sign no larger than four (4) square feet located near the base of the tower in order to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the antenna(s), as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. No other signage, including advertising, shall be permitted.

§ 1155.11 LOT SIZE, SETBACKS AND SCREENING REQUIREMENTS.

- (A) All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from any nonresidential property line a minimum of a

distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 10% of the height of the tower or structure.

- (B) Towers and any other proposed wireless telecommunications facility structures shall be located no less than 500 feet from any residential district and no less than 250 feet from any public right-of-way.
- (C) The minimum lot size of any tower or any other wireless telecommunications facility structure shall be 2 acres. Towers and any other wireless telecommunications facility structure shall be located no less than 30 feet from any other non-related buildings situated on the same site. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements set forth in the underlying zoning district for the property on which it is situated.
- (D) Any and all equipment related to the operation of a tower and any other wireless telecommunications facility structure located on the ground shall be fully screened with a minimum 6-foot high solid wood privacy fence with continuous evergreen hedge vegetation, with a minimum initial tree height of five (5) feet. All screening shall be located behind the specified setback lines. The tower or wireless telecommunications facility structure owner/operator is responsible for installing and maintaining said screening. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.

§ 1155.12 RETENTION OF EXPERT ASSISTANCE AND REIMBURSEMENT BY APPLICANT.

- (A) The City may hire any consultant and/or expert necessary to assist the City in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.
- (B) An applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation to the City in connection with the review of any application, including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500.00 with the City shall precede the pre-application meeting. The City will maintain a separate escrow account for all such funds. The City's consultants/experts shall invoice the City for its services in reviewing the application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500.00, the applicant shall immediately, upon notification by the City, replenish the escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the City before any further action or consideration is taken on the application. In the event that the amount held in escrow by the City is more than the amount of the

actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

- (C) The total amount of the funds needed as set forth in division (B) of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

§ 1155.13 EXCEPTIONS FROM A SPECIAL USE PERMIT.

- (A) No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of this Chapter without having first obtained a special use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no special use permit shall be required for those non-commercial exceptions noted in the definition of wireless telecommunications facilities.
- (B) All wireless telecommunications facilities existing on or before the effective date of this Chapter shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility must comply with this Chapter.

§ 1155.14 PUBLIC HEARING AND NOTIFICATION REQUIREMENTS.

- (A) Prior to the approval of any application for a special use permit for wireless telecommunications facilities, a public hearing before the Planning and Zoning Commission shall be held by the City, notice of which shall be published in the official newspaper of the City no less than 15 calendar days prior to the scheduled date of the public hearing. In order that the City may notify nearby landowners, the application shall contain the names and addresses of all landowners whose property is located within 1,500 feet of any property line of the lot or parcel on which the new wireless telecommunications facilities are proposed to be located.
- (B) There shall be no public hearing required for an application to co-locate on an existing tower or other structure, as long as there is no proposed increase in the height of the tower or structure, including attachments thereto.
- (C) The City shall schedule the public hearing referred to in division (A) of this section once it finds the application is complete. The City, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.

§ 1155.15 ACTION ON AN APPLICATION FOR SPECIAL USE PERMIT.

- (A) The City will undertake a review of an application pursuant to this Chapter in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.
- (B) The City may refer any application or part thereof to any advisory or other committee for a non-binding recommendation.
- (C) After the public hearing and after formally considering the application, the City Planning and Zoning Commission may approve, approve with conditions, or deny a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.
- (D) If the City approves the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such approval in writing within 10 calendar days of the City's action, and the special use permit shall be issued within 30 days after such approval. Except for necessary building permits, and subsequent certificates of compliance, once a special use permit has been granted hereunder, no additional permits or approvals from the City, such as site plan or zoning approvals, shall be required by the City for the wireless telecommunications facilities covered by the special use permit.
- (F) If the City denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing within 10 calendar days of the City's action.

§ 1155.16 RECERTIFICATION OF A SPECIAL USE PERMIT.

- (A) Between 12 months and 6 months prior to the 5-year anniversary date after the effect date of the special use permit and all subsequent 5-year anniversaries of the effective date of the original special use permit for wireless telecommunications facilities, the holder of a special use permit for such wireless telecommunication facilities shall submit a signed written request to the City for recertification. In the written request for recertification, the holder of such special use permit shall note the following:
 - (1) The name of the holder of the special use permit for the wireless telecommunications facilities;
 - (2) If applicable, the number or title of the special use permit;
 - (3) The date of the original granting of the special use permit;

- (4) Whether the wireless telecommunications facilities have been moved, re-located, rebuilt, or otherwise visibly modified since the issuance of the special use permit and if so, in what manner;
 - (5) If the wireless telecommunications facilities have been moved, re-located, rebuilt, or otherwise visibly modified, then whether the City approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;
 - (6) That the wireless telecommunications facilities are in compliance with the special use permit and in compliance with all applicable codes, laws, rules and regulations;
 - (7) Recertification that the tower and attachments both are designed and constructed and continue to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a professional engineer licensed in the State, the cost of which shall be borne by the applicant.
- (B) If, after such review, the City determines that the permitted wireless telecommunications facilities are in compliance with the special use permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the City issues a recertification of the special use permit for the wireless telecommunications facilities, which may include any new provisions or conditions that are mutually agreed upon, or that are required by applicable statutes, laws, ordinances, codes, rules or regulations. If, after such review, it is determined that the permitted wireless telecommunications facilities are not in compliance with the special use permit and all applicable statutes, laws, ordinances, codes, rules and regulations, then the City may refuse to issue a recertification of the special use permit for the wireless telecommunications facilities, and in such event, such wireless telecommunications facilities shall not be used after the date that the applicant receives written notice of the decision by the City, until such time as the facility is brought into compliance. Any decision requiring the cessation of use of the facility or imposing a penalty shall be in writing and supported by substantial evidence contained in a written record, and shall be promptly provided to the owner of the facility.
- (C) If the applicant has submitted all of the information requested and required by this Chapter, and if the review is not completed, as noted in division (B) of this section, prior to the 5-year anniversary date of the special use permit, or subsequent 5-year anniversaries, then the applicant for the permitted wireless telecommunications facilities shall receive an extension of the special use permit for up to 6 months, in order for the completion of the review.

- (D) If the holder of a special use permit for wireless telecommunications facilities does not submit a request for recertification of such special use permit within the time frame noted in division (A) of this section, then such special use permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the special use permit, or subsequent 5-year anniversaries, unless the holder of the special use permit adequately demonstrates that extenuating circumstances prevented a timely recertification request. If the City agrees that there were legitimately extenuating circumstances, then the holder of the special use permit may submit a late recertification request or application for a new special use permit.

§ 1155.17 EXTENT AND PARAMETERS OF SPECIAL USE PERMIT.

The extent and parameters of a special use permit for wireless telecommunications facilities shall be as follows:

- (A) Such special use permit shall be non-exclusive;
- (B) Such special use permit shall not be assigned, transferred or conveyed without the express prior written notification to the City.
- (C) Such special use permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the special use permit, or for a material violation of this Chapter, after prior written notice to the holder of the special use permit.

§ 1155.18 APPLICATION FEE.

- (A) At the time that a person submits an application for a special use permit for a new tower, such person shall pay a non-refundable application fee of \$5,000.00 to the City. If the application is for a special use permit for co-locating on an existing tower or other suitable structure, where no increase in height of the tower or structure is required, the non-refundable fee shall be \$2,000.00.
- (B) No application fee is required in order to rectify a special use permit for wireless telecommunications facilities, unless there has been a visible modification of the wireless telecommunications facility since the date of the issuance of the existing special use permit for which the conditions of the special use permit have not previously been modified. In the case of any modification, the fees provided in division (a) shall apply.

§ 1155.19 PERFORMANCE SECURITY.

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the City a bond,

or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount of at least \$75,000.00, and with such sureties as are deemed sufficient by the City to assure the faithful performance of the terms and conditions of this Chapter and conditions of any special use permit issued pursuant to this Chapter. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit.

§ 1155.20 RESERVATION OF AUTHORITY TO INSPECT.

In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including but not limited to towers, antennas and buildings or other structures constructed or located on the permitted site.

§ 1155.21 ANNUAL NIER CERTIFICATION.

The holder of the special use permit shall, annually, certify to the City that NIER levels at the site are within the threshold levels adopted by the FCC.

§ 1155.22 LIABILITY INSURANCE.

- (A) A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the special use permit in amounts as set forth below:
 - (1) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence; \$2,000,000 aggregate;
 - (2) Automobile Coverage: \$1,000,000.00 per occurrence; \$2,000,000 aggregate;
 - (3) Workers Compensation and Disability: statutory amounts.
- (B) The Commercial General Liability insurance policy shall specifically include the City and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.
- (C) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least "A".

- (D) The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days prior written notice in advance of the cancellation of the insurance.
- (E) Renewal or replacement policies or certificates shall be delivered to the City at least 15 days before the expiration of the insurance that such policies are to renew or replace.
- (F) Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than 15 days after the granting of the special use permit, the holder of the special use permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

§ 1155.23 INDEMNIFICATION.

- (A) Any application for wireless telecommunication facilities that is proposed for City property pursuant to this Chapter shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the City, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.
- (B) Notwithstanding the requirements noted in division (A) of this section, an indemnification provision will not be required in those instances where the City itself applies for and secures a special use permit for wireless telecommunications facilities.

§ 1155.24 FINES.

- (A) In the event of a violation of this Chapter or any special use permit issued pursuant to this Chapter, the City may impose and collect, and the holder of the special use permit for wireless telecommunications facilities shall pay to the City, fines or penalties as set forth below.
- (B) A violation of this Chapter is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars (\$350.00) per day per occurrence, or

imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both, of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00), or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this section or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

- (C) Notwithstanding anything in this Chapter, the holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Chapter or any section of this Chapter. An attempt to do so shall subject the holder of the special use permit to termination and revocation of the special use permit. The City may also seek injunctive relief to prevent the continued violation of this Chapter, without limiting other remedies available to the City.

§ 1155.25 DEFAULT AND/OR REVOCATION.

- (A) If wireless telecommunications facilities are repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Chapter or of the special use permit, then the City shall notify the holder of the special use permit in writing of such violation. Such notice shall specify the nature of the violation or noncompliance, and that the violations must be corrected within 7 days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this division or any other section of this Chapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the City may, at its sole discretion, order the violation remedied within 24 hours.
- (B) If, within the period set forth in division (A) above, the wireless telecommunications facilities are not brought into compliance with the provisions of this Chapter or of the special use permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facilities into compliance, then the City may revoke such special use permit for wireless telecommunications facilities, and shall notify the holder of the special use permit within 48 hours of such action.

§ 1155.26 REMOVAL.

- (A) Under the following circumstances, the City may determine that the health, safety, and welfare interests of the City warrant and require the removal of wireless telecommunications facilities:
- (1) Wireless telecommunications facilities with a permit have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a total of 180 days in any 365-day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;
 - (2) Permitted wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard;
 - (3) Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization.
- (B) If the City makes such a determination as noted in division (A) of this section, then the City shall notify the holder of the special use permit for the wireless telecommunications facilities within 48 hours that said wireless telecommunications facilities are to be removed, the City may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.
- (C) The holder of the special use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the City. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the City.
- (D) If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the City may order officials or representatives of the City to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.
- (E) If, the City removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within 10 days, then the City may take steps to

declare the wireless telecommunications facilities abandoned, and sell them and their components.

- (F) Notwithstanding anything in this section to the contrary, the City may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than 90 days, during which time a suitable plan for removal, conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the special use permit and the City. If such a plan is not developed, approved and executed within the 90-day time period, then the City may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

§ 1155.27 RELIEF.

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this Chapter may request such at the pre-application meeting, provided that the relief or exemption is contained in the original application for either a special use permit, or in the case of an existing or previously granted special use permit, a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the City in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the City, its residents and other service providers.

§ 1155.28 PERIODIC REGULATORY REVIEW BY THE CITY.

- (A) The City may at any time conduct a review and examination of this entire Chapter.
- (B) If after such a periodic review and examination of this Chapter, the City determines that one or more provisions of this Chapter should be amended, repealed, revised, clarified, or deleted, then the City may take whatever measures are necessary in accordance with applicable law in order to accomplish the same. It is noted that where warranted, and in the best interests of the City, the City may repeal this entire Chapter at any time.
- (C) Notwithstanding the provisions of divisions (A) and (B) of this section, the City may at any time, and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this Chapter.

§ 1155.29 ADHERENCE TO STATE AND/OR FEDERAL RULES AND REGULATIONS.

- (A) To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt from appropriate State and/or Federal agency rules or regulations, then the holder of such a special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- (B) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such a special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

§ 1155.30 CONFLICT WITH OTHER LAWS.

Where this Chapter differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the City, State or federal government, this Chapter shall app

Chapter 1157 Definitions

§ 1157.01 DEFINITIONS AND GENERAL INTERPRETATION.

(A) *Definitions.* Unless the context otherwise requires, the following definitions shall be used in the interpretation of this Zoning Code.

ABUTTING. Having a common border with, or being separated from, such a common by a right-of-way, alley, or easement.

ACCESSORY STRUCTURE. Any improvement to the property other than the main building(s), with the exception of landscaping, is an accessory structure. If a temporary building is placed on a property to provide extra space for expansion of a use, the temporary building shall also be an accessory structure.

ACCESSORY USE. A use clearly incidental to and on the same lot or property as the principal use.

ADULT DAY CARE FACILITIES. A facility where adults that are not normally capable of taking care of themselves are taken care of on an hourly or daily basis by qualified persons, other than the primary care giver, without providing any overnight accommodations or routine medical service, other than emergency service or administering of medication. The facility is characterized by the fact that the adults do not leave or are not capable of leaving the facility without assistance from a care giver.

ADULT GROUP HOME. A group of six or more individuals not related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under supervision of on-site management, which is compensated by payment to providing organization and stability to those individuals. The individuals are usually not infirm and may be capable of leaving the premises without assistance. “Adult group home” does not include nursing homes where the individuals are infirm.

ADULT ENTERTAINMENT shall mean performances by topless and/or bottomless dancers, strippers or similar entertainers where such performances are characterized by the display or exposure of specified anatomical areas. The following terms are typically associated with the term “Adult Entertainment”

Nude or State of Nudity shall mean the showing, representation or depiction of human male or female genitals, a bare buttock, an anus, or the areola or nipple of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of uncovered male genitals in a discernibly turgid state.

Semi-Nude shall mean a state of dress in which clothing covers no more than the genitals, the pubic region and the areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Specified Anatomical Areas shall mean less than completely and opaquely covered human genitals, pubic region, buttock and female breasts below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities shall mean human genitals in a state of sexual stimulation or arousal; acts, real or simulated, of human fondling, sexual intercourse, sodomy, cunnilingus or fellatio; or the fondling or other erotic touching of human genitals, the pubic region, a buttock or female breasts.

Adult Entertainment Facility shall mean any adult arcade, adult bookstore, adult cabaret, adult theater, adult drive-in theater, adult mini-motion picture theater, adult motion picture theater, adult motel, adult video store, nude model studio, sexually oriented business or any business providing adult entertainment.

Adult Arcade shall mean an establishment where one or more still or motion picture projectors, slide projectors or similar machines, or other image-producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult Book Store shall mean an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material.

Adult Cabaret shall mean a nightclub, bar, restaurant, "bottle club" or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- (A) Persons who appear nude or in a state of nudity or semi-nudity;
- (B) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (C) Films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult Drive-in Theater shall mean an outdoor theater for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons, which may not be located on a parcel of property less than five acres.

Adult Material shall mean any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, motion picture film, video, pornographic record or tape, or other tangible thing, which material is distinguished or characterized by an emphasis on matter displaying, describing or representing sexual activity, masturbation, sexual excitement, nudity, bestiality or human bodily functions of elimination.

Adult Mini-Motion Picture Theater shall mean an enclosed building with a capacity of less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

Adult Motel shall mean a motel, hotel or similar commercial establishment which:

- (A) Offers public accommodations which provide patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right of way or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television;
- (B) Offers a sleeping room for rent for a period of time less than ten hours; or
- (C) Allows a tenant or occupant to sub-rent the sleeping room for a period of less than ten hours.

Adult Motion Picture Theater shall mean an enclosed building with a capacity of fifty or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

Adult Service shall mean any service capable of arousing sexual interest through sight, sound or touch, which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality or human bodily functions of elimination.

Adult Theater shall mean a facility used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult Video Store shall mean an establishment having as a substantial or significant portion of its stock in trade, videos which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.

Nude Model Studio shall mean any place where a person, who regularly appears in a state of nudity or displays specified anatomical areas to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

Sexually Oriented Business shall mean an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment, nude model studio or establishment handling adult materials or providing adult services.

Sexual Encounter Establishment means a business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of a specified sexual activities or when one or more of the persons is semi-nude. This definition shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State engages in medically approved and recognized sexual therapy.

Specified Anatomical Areas shall mean:

- (A) Human genitals in a state of sexual arousal;
- (B) The appearance of the cleft of the buttocks, anus, male or female genitals, or areola of the female breast; or
- (C) A state of dress that fails to opaquely cover the cleft of the buttocks, anus, male or female genitals, or areola of the female breast.

Specified Sexual Activity shall have the same meaning as “sexual activity”, as defined in Ohio R.C. 2907.01(C).

Employ, Employee, and Employment describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Escort means a person who, for consideration, agrees or offers to act as a companion or date for another person, and who offers to privately model lingerie, perform a strip tease, appear in a state of nudity or partial nudity or display any specified anatomical areas.

Regularly Features or Regularly Shown means, with respect to an Adult Theater or Adult Cabaret, a consistent course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the regular business of the Adult Theater or Adult Cabaret.

Established or Establishment shall mean and include any of the following:

- (A) The opening or commencement of any sexually oriented business as a new business;
- (B) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (C) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (D) The relocation of any sexually oriented business.

AGRICULTURE. The use of land exclusively for agricultural purposes including: farming, agriculture, horticulture, floriculture, viticulture, dairying, pasturage, animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing of the products of same; provided that the operation of such accessory uses shall be secondary to that of the normal agricultural activities. A use shall be classified as agricultural only if it is the principal or main use of the land.

ALLEY. A public or private thoroughfare which affords only a secondary means of access to a lot or abutting property.

ALTERATION. Any change, addition, or modification in construction or occupancy of an existing structure.

ALTERATIONS, STRUCTURAL. Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

AMUSEMENT ARCADES. A building or part of a building in which five or more pinball machines, video games, or other similar player-operated amusement devices are maintained.

ANIMALS (as Pets). Any species of felis catus and canis familiaris and other animals commonly kept as domestic pets.

ANIMALS (Exotic). Any cat, other than felis catus; any canine, other than canis familiaris, non-human primates; poisonous reptiles; alligators, crocodiles or lizards over two feet long; snakes over six feet long; bears; kangaroos; eagles; poisonous stinging insects; or arachnids.

APARTMENT. See Dwelling, Multiple-Family, as defined in this section.

ATM. “AUTOMATED TELLER MACHINE” A pedestrian-oriented machine used by bank and financial service patrons for conducting transactions including deposits, fund transfers, and withdrawals without contact with financial institution personnel. The machines may be located at or within a bank, or in other locations.

AUTOMOBILE OR TRAILER SALES AREA. An open space area, other than a street, used for the display, sale, or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done, including farm implements, boats, motorcycles, bicycles, and lawnmowers.

AUTOMOTIVE GASOLINE STATIONS. A commercial business which conducts the retail sale of motor vehicle and related petroleum-based fuels including but not limited to gasoline, diesel, ethanol, and propane fuels. Automobile service and re-pair is not included. The sale of other commercial retail goods such as limited food, beverage, and other convenience items is permitted on a limited scale.

AUTOMOTIVE SERVICE STATION. Establishment primarily engaged in automotive repair, including the sale and installation of lubricants, tires, batteries, mufflers, and similar accessories.

AUTOMOTIVE WASH OR AUTOMOTIVE CAR WASH. See Car Wash, as defined in this section.

AWNING. A permanent shelter supported entirely from the exterior wall of a building and composed of rigid or non-rigid materials.

BANKS AND FINANCIAL INSTITUTIONS. Commercial banks, savings and loan associations, credit unions, brokerage offices, and other similar financial institutions, but not including pawnshops, check cashing establishments or payday loan businesses.

BAR, TAVERN, OR COCKTAIL LOUNGE. Any premises wherein alcoholic beverages are sold at retail for consumption on the premises and minors are excluded by law. It shall not mean a restaurant wherein such beverages are sold in conjunction with the sale of food for consumption on the premises and minors are not prohibited from dining.

BED AND BREAKFAST. A dwelling wherein lodging and/or food is provided by a resident family primarily for transient guests, as distinguished from a boarding house, hotel, or motel.

BOARDING HOUSE. A building other than a hotel, motel, or a bed and breakfast where for compensation by the week or month, meals are provided for three or more unrelated boarders or roomers at any one time.

BUFFER AREA or SCREENING. A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another. Buffering includes fences, walls, hedges, berms, landscaping material, or a combination of these.

BUILDING. Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, or property. When such a structure is divided into separate parts by one or more un-pierced walls extending from the ground up, each part is deemed a separate building with respect to the minimum side yard requirements as hereinafter provided.

BUILDING HEIGHT. The vertical distance between the average contact with the ground level at the front wall of the building to the highest point of the roof.

CAR WASH. An automobile service facility either manually operated or automatic for clearing interior and exterior of automobiles or other motor vehicles.

CEMETERY. Land used or intended to be used for the burial of the animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

CHILD CARE CENTER. An establishment that administers to the needs of infants, toddlers, pre-school children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage or adoption for any part of the 24-hour day if over 6 children are regularly cared for in a place or residence other than the child's own home. The term "Child Care Center" also includes nursery schools where children under the age of five are receiving schooling.

CHILD CARE, HOME OPERATED. A private residence, where care, supervision, and protection are provided on a regular basis from 1 to 6 infants, toddlers, pre-school children, and school children outside of school hours by a person who is not the parent but is a resident of the home. For the purposes of this definition, the resident children who are under 16 shall be included with the nonresident children when counting the number of children. A dwelling with a family with more than 6 children who are all living in the dwelling unit and are related shall not be considered a home operated child care.

CLINIC. A place used for the care, diagnosis, and treatment of sick, ailing, or injured persons, and those who are in need of medical and surgical attention but who are not provided with board or room or kept overnight on the premises.

CLUB. A building or portion thereof or premises owned or operated for a fraternal, literary, political, or educational purpose primarily for the exclusive use of its members and their guests.

COMPREHENSIVE PLAN. A plan, or any portion thereof, adopted by the Planning and Zoning Commission and the legislative authority of the City, showing the general location and extent or present and proposed physical facilities including housing, industrial, and commercial uses, major thoroughfares, parks, schools, and other community facilities. This plan establishes the goals, objectives, and policies of the community.

CONVALESCENT HOME. See Nursing Home, as defined in this section.

CONVENIENCE FOOD STORES. Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

DENSITY. A unit of measure; the number of dwelling units per acre of land.

DENSITY, GROSS. The number of dwelling units per acre of the total land to be developed.

DENSITY, NET. The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

DRIVE-UP or DRIVE-THROUGH. An establishment that by design of physical facilities or by services or packaging procedures encourages or permit customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises or be entertained while remaining in an automobile.

DWELLING. A building or portion thereof which is designed to provide living accommodations for one or more families. A dwelling unit includes a permanently sited manufactured home as separately defined in this section.

DWELLING, SINGLE-FAMILY. A building used exclusively to provide one dwelling unit for occupancy by one family.

DWELLING, MULTIPLE-FAMILY. A building used exclusively to provide two or more dwelling units for occupancy by three or more families.

DWELLING UNIT. One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping. A “dwelling unit” does not include mobile or manufactured homes, but does include industrialized units.

EDUCATIONAL INSTITUTION. Public or private elementary schools, junior high schools, middle schools, high schools, junior colleges, community colleges, colleges, or universities, or other schools giving general academic instruction in several branches of learning and study required by the education code of the state.

EASEMENT. The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

FAMILY. One or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth or marriage; as distinguished from a group occupying a boarding house, lodging house, or hotel as herein defined, provided, however, that unless all members are related by blood, adoption, or marriage, no such family shall contain over five persons.

FLOOR AREA. The sum of the gross horizontal areas of each floor of the principal building measured from the exterior faces of the exterior walls or from the centerline of common walls separating two buildings. The floor area of a building shall include all livable spaces including the basement floor area when more than one-half of the basement height is above the finished grade level.

FOOD TRUCK (MOBILE FOOD UNIT). Any apparatus or equipment that is used to cook, prepare or serve food, and that routinely changes or can change location and is operated from a moveable vehicle or apparatus, including but not limited to motorized vehicles, trailers, and hand propelled carts.

FOOD TRUCK PARK. One or more lots or parcels of land where three or more food trucks (mobile food units) congregate to offer food or beverages for sale to the public as the principal use of the land.

FRONTAGE. All the property on one side of a street between two intersecting streets, crossing or terminating, measured along the line of the street, or if the street is dead ended, then all the property abutting on one side between an intersecting street and the dead-end of a street.

FUNERAL HOME. A building or part thereof used for human funeral services. Such building may contain space and facilities for: (a) embalming and the performance of other services used in preparation of the dead for burial; (b) the performance of autopsies and other related surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; and (d) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

GARAGE. An accessory building for automobiles in which no occupation or business is carried on.

GASOLINE SERVICE STATION or FILLING STATION. A building or part of a building or structure or space for the retail sale of gasoline, lubricants, and motor vehicle accessories and/or for minor service and repairs not accompanied by objectionable noises, fumes, dust, or odors.

GRADE. The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or when the property line is more than five feet from the building, between the building, and a line five feet from the building.

HOME OCCUPATION. Any occupation conducted entirely within a dwelling unit exclusive of garages or accessory buildings carried on by persons residing in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not involve any extension or modification of the dwelling which will alter its outward appearance.

HOSPITAL. Any public or private institution which specializes in giving clinical, temporary and emergency services of a medical or surgical nature to injured persons and which maintains and operates twenty-four (24) hour inpatient services for the diagnosis and treatment of patients. Any hospital shall be so licensed by the State Department of Health.

HOTEL. A business which offers overnight accommodations to transient guests on a daily rate basis and often providing other services for the guests such as restaurants, meeting rooms, and recreational facilities. See also Motel, as defined in this section.

INDUSTRIALIZED DWELLING UNIT. An assembly of materials or products comprising all or part of a total structure which, when constructed, is self-sufficient or substantially self-sufficient, and when installed, constitutes a dwelling unit, except for necessary preparations for its placement. Industrialized units include units commonly referred to as modular or pre-fabricated units, but do not include mobile homes or manufactured homes as separately defined.

LOT. A parcel of land occupied or intended to be occupied by one or more dwellings in a residential district or a permitted building or use in a commercial or industrial district, intended as a unit for transfer of ownership, together with accessory buildings and uses customarily incident thereto. A lot includes open spaces and minimum area provisions as are required by this Zoning Code for the district in which the lot is situated and having its principal frontage on a public street or public right-of-way.

LOT AREA. The total computed horizontal area contained within the lot lines or boundary lines of a lot including any portion of a lot that may exist within a public right-of-way.

LOT, CORNER. A lot having two adjacent sides abutting upon two streets.

LOT DEPTH. The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE. A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

LOT, INTERIOR. A lot other than a corner lot with only one frontage on a street.

LOT (PANHANDLE). A lot whose frontage on a public street is through a narrow strip of land which is generally wide enough to accommodate a driveway but too narrow to accommodate any structures. This narrow strip of land is referred to as the panhandle and the balance of the lot is referred to as the body. These lots are also referred to as “flag” lots.

LOT OF RECORD. A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder; or a parcel of land described by metes and bounds, the description of which has been recorded in the office of the County Recorder of Hamilton County, Ohio.

LOT WIDTH. The distance between side lot lines measured at the front yard building line; in case of irregular shaped lots, the lot shall be measured at a point midway between the front and rear lot lines.

MANUFACTURED HOME. A building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards

established by the Secretary of Housing and Urban Development pursuant to the Manufactured Housing Construction and Safety Standards Act of 1974, and that has a permanent label or tag affixed to it certifying compliance with all applicable federal construction and safety standards.

MANUFACTURED HOME (PERMANENTLY SITED). A manufactured home that meets all of the following criteria: The structure is affixed to a permanent foundation and is connected to appropriate facilities:

- (1) The structure, excluding an addition, has a total living area, excluding garages, porches, or attachments of at least 1,200 square feet;
- (2) The structure has a minimum 5:12 residential roof pitch and a six-inch minimum eave overhang, including appropriate guttering;
- (3) The structure was manufactured after January 1, 1995;
- (4) The structure is not located in a manufactured home park as defined by R.C. § 3733.01.

MAXIMUM HEIGHT. Maximum height of a building is measured from grade to uppermost peak of the roof for any building. Receiving antennae, belfries, spires, and other ornament shall not be included when calculating height of the building.

MAXIMUM LOT COVERAGE. The total area of a lot that is covered by permanent buildings.

MEDICAL SUPPLY OUTLET "PHARMACY". A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies, and nonprescription medicines but where nonmedical products may be sold as well. A Pharmacy may include accessory drive-up customer service facilities located on the same parcel.

MINIMUM LOT AREA. The least amount of area of horizontal plane bounded by the vertical planes through front, side, and rear lot lines.

MINIMUM LOT WIDTH. The required minimum width of lot measured at the front setback line for a building.

MOBILE HOME. A transportable, factory-built home designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974.

MODULAR HOME. Factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the state, modular homes shall be subject to the same standards as site-built homes.

MOTEL. A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel. See also Hotel as defined in this section.

MOTOR HOME. See Travel Trailer as defined in this section.

MULTI-SECTION MANUFACTURED HOME. A factory-built home constructed to the design and specification standards of a manufactured home as set forth in 24 CFR 3280, 3282 and 3283, and 42 USC 5401 et. seq.

NONCONFORMING USE. Any building, structure, or land lawfully occupied by a use on the effective date of this Zoning Code or any amendment or supplement thereto which does not conform to the use regulations of the district in which it is situated.

NURSING HOME. Any place or abode, building, institution, residence, or home used for the reception and care for a consideration of three or more persons who by reason of age or mental or physical infirmities are not capable of properly caring for themselves, or who are 65 years of age or over and for which a license, if necessary, has been issued by the Ohio Department of Public Welfare or other appropriate agency. Patron residents of a nursing home are normally characterized by a lack of ability to leave the home without assistance from a care giver.

NURSERY SCHOOL "CHILD DAY CARE FACILITY". Means providing care for children during daytime hours, including parent cooperative nursery schools, play groups for preschool children, afterschool care for school children, provided such establishment is institutional in character and is licensed by the state or county and conducted in accordance with state requirements.

OFFICE. Office shall mean a building or portion of a building wherein services are performed involving predominantly administrative, professional and clerical operations.

OPEN SPACE, ACTIVE. Active open space shall be designed with the goal to encourage active use(s) for the residents of the development. Active open space shall include, but may not be limited to, the following uses: pathways, seating areas, recreation areas, outdoor gathering or dining areas, swimming pools and clubhouses.

OPEN SPACE. An area open to the sky which is or may be on the same lot with a building or structure. This area may include landscaped and mowed grass areas.

OUTDOOR DINING. Tables and/or chairs (including benches) and umbrellas associated with lawfully operating Food Service Establishments and similar uses, in or on the public right-of-way or resting on, or projecting into, the sidewalk area, which are not physically or structurally attached to a building, retaining wall or fence.

PARKING SPACE, OFF-STREET. An unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one motor vehicle.

PARKING AREA (PUBLIC). An open area, other than a street, used for the temporary parking of more than four automobiles and available for public use, whether free, for compensation or as an accommodation for clients or customers.

PERFORMANCE BOND or SURETY BOND. An agreement by a subdivider or developer with the city for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider's agreement.

PLANNED UNIT DEVELOPMENT (PUD). An area of land in which a variety of uses are accommodated in a pre-planned environment under more flexible standards such, as lot sizes and setbacks, than those restrictions that would normally apply under this Zoning Code.

PROFESSIONAL ACTIVITIES. The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, and engineers, and similar professions.

PUBLIC USE. Public parks, schools, and administrative and cultural buildings and structures, including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities, including water and sewer service facilities.

PUBLIC MUSEUM. A building, place, or institution devoted to the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.

RAISING OF ANIMALS. The raising of farm animals, exotic animals, or the raising of any animal for commercial purposes. This definition does not pertain to domestic household pets.

RECREATION AREA (PRIVATE). A recreation area owned and maintained by the owner of a development, business concern or property owners' association for tenants, employees, co-owners or members of an association.

RECREATION AREA (PUBLIC). A recreation area maintained by a public authority for public use.

RECREATION AREA (COMMERCIAL). Land or facilities operated as a business and which are open to the general public for a fee that shall include, but is not limited to: roller blade rental, billiard parlors, video amusement arcades, pay-to-play athletic fields, golf courses, ice skating rinks, swimming pools, bingo parlors, lotto facilities and other businesses where the majority of business is in games of chance.

RELIGIOUS PLACE OF WORSHIP (CHURCH). Religious Places of Worship shall mean an institution that a congregation of people regularly attends to participate in or hold religious services, meetings and other activities, including buildings in which the religious service of any denomination are held.

RESTAURANT. Establishments primarily engaged in the preparation and sale of food which accounts for fifty-one percent or more of the business sales and may include ancillary sale of alcoholic beverages (forty-nine percent or less of total sales).

RETAIL BUSINESS. Any business which primarily sells goods, wares or merchandise directly to the ultimate customer for direct consumption and not for resale.

RIGHT-OF-WAY. A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

ROADSIDE STAND. A removable structure used or intended to be used solely by the owner or the tenant of a property on which it is located for the sale of seasonal agricultural products produced on the premises and is stored back of the building line on the property at the conclusion of the seasonal sales.

SATELLITE DISH. A signal-receiving device whose purpose is to receive or send communications or signals from earth-orbiting satellites or other sources.

SERVICE STATION. See Gasoline Service Station as defined in this section.

SIGN. Any display that evokes a message or shows any product, service, business, name, or other enterprise in a promotional manner. A sign may consist of wording, logos or images. See also the complete sign code definition list found in Chapter 1145.

STORY. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; also any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless more than one-half of the basement height is above grade level at the front of the building.

STREET. All property dedicated or intended for public or private use for passage or travel of motor vehicles.

STRUCTURE. Anything built or constructed which requires a permanent location on any given lot, other than landscaping. Structures include but are not limited to buildings, pools, tennis courts, storage facilities, parking lots, roadside stands, monuments, statues, flagpoles, and signs.

SUBDIVISION. The division of any parcel of land shown as a unit, part of a unit or a contiguous unit on the last preceding transfer of ownership thereof.

- (A) **Major Subdivision** shall mean the improvement of five or more new parcels from the original parcel of land for residential use or the improvement of one or more parcels of land for commercial or industrial structures or groups of structures involving the subdivision and allocation of land as streets or other open spaces for common use by the owners, occupants or leaseholders or as easements, or for the extension and maintenance of public sewer, water, storm drainage or other public utilities and facilities.
- (B) **Minor Subdivision** shall mean the division of one property into four or less residential parcels, sites or lots, any one of which is less than five acres in area, for the purpose, whether immediate or future, of transfer of ownership. A minor subdivision shall also mean the division or partition of land into no more than four parcels where no new streets or roads are involved; the division of land for agricultural purposes where the resulting parcels are more than five acres or larger in size; the division of property by testamentary or interstate provisions; or the division of property upon court order.

SWIMMING POOL (PRIVATE RESIDENTIAL). The term Swimming Pool shall mean a body of water, created by artificial means designed or used for swimming or other immersion purposes, any portion of which is one-half foot (1 ½ ‘) deep or more. It includes a fish pond, wading pool, hot tub, or spa.

SWIMMING POOL (PORTABLE). Swimming pools that are only capable of holding eighteen inches (18") or one and one-half foot (1 ½ ‘) of water or less, at the deepest point, and are nine feet (9') or less in water surface diameter at the widest point, or less than sixty-five (65) square feet in surface area.

TATOO OR BODY PIERCING ESTABLISHMENT. An establishment or facility engaged in the method of placing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instruments designed to touch or puncture the skin. This definition also includes body piercing or other related body art activities commonly associated with tattooing parlors.

TRAVEL TRAILER or TRAILER. A vehicle, whether or not it is pulled by another vehicle, used or intended for use as a conveyance upon the public streets or highways, so designed, constructed, reconstructed, or added to by means of portable accessories in such manner as will permit the occupancy thereof as a movable dwelling or sleeping place.

USE. The specific purposes for which a building or land is designated, arranged, intended, or maintained. In the classification of uses, a use may be a use as commonly understood or the name of an occupation, business, activity, or operation carried on in a building or on premises or the name of a building, place, or thing which name indicates the use or intended use.

VARIANCE. A modification of the strict terms of the relevant regulations of this Zoning Code where such modification will not be contrary to the public interest. A variance is also a modification of regulations where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Zoning Code would result in unnecessary and undue hardship. Variances can only be granted by the Board of Zoning Appeals as provided under Chapter 1105 or by the Planning and Zoning Commission as expressly granted under the Subdivision Regulations provisions.

WAREHOUSE. A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment containing no on-site retail sales, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions. This term also includes “Wholesale” and “Distribution” related establishments.

WIRELESS TELECOMMUNICATIONS EQUIPMENT SHELTER. A structure in which electronic receiving and relay equipment for a wireless telecommunications facility is housed.

WIRELESS TELECOMMUNICATIONS FACILITY. A facility consisting of the equipment and structures involved in receiving or relaying telecommunications or radio signals from a mobile radio communication source and transmitting those signals to a central switching computer which connects the mobile unit with land-based telephone lines.

WIRELESS TELECOMMUNICATIONS TOWER. A structure intended to support equipment used to transmit, relay, and/or receive telecommunications signals, including but not limited to monopoles, guyed, and lattice construction steel structures.

YARD. Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings or such projections as are expressly permitted in these regulations. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and the nearest point of the foundation wall of the main building.

YARD REQUIREMENT. The open space between a lot line and the building area within which no structure shall be located except as provided in the Zoning Code.

YARD SETBACKS. The required minimum horizontal distance between the building line and the related front, side, or rear property line.

ZERO LOT LINE. The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line. Also, for the purposes of this Zoning Code, a zero lot line shall include buildings that are built with a shared wall resting on a lot line, and the shared wall shall be considered the zero lot line if the building is intended to be owned by two separate owners on both sides of the shared wall.

ZONING INSPECTOR. An appointed administrative official under the jurisdiction of the City Safety-Service Director who implements, enforces and interprets the provisions, regulations and

requirements of the City of Deer Park Zoning Code. The Zoning Inspector may be the City Safety-Service Director if so appointed by the City Council.

ZONING MAP, CITY OF DEER PARK. The zoning map for the City of Deer Park showing at least the corporation limits and streets and other landmarks for reference, the property boundaries for all properties inside the city, and the zoning categories that have been adopted and are enforced for the properties contained within the city. Also referred to as the City Zoning Map.

ZONING PERMIT. A document issued by the Zoning Inspector authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses.