City of Brecksville, Ohio
Code of Ordinances

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PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Municipal Planning

Chapter 1101. Planning Commission

CHAPTER 1101: PLANNING COMMISSION

Section

1101.01 Fee for public hearings; exceptions
1101.02 Fees for subdivision and development plan approvals
1101.03 Meetings and voting
1101.04 Professional review fee deposit required

Cross-reference:

Establishment and powers of the Planning Commission, see Charter Art. V, Sec. 8 and 11

§ 1101.01 FEE FOR PUBLIC HEARINGS; EXCEPTIONS.

(a) The Planning Commission shall hold no public hearings on any proposal or application on any matter coming within its jurisdiction by any person, firm or corporation except the City Council, or any officer, board or commission of the municipality, unless such person, firm or corporation shall first make a request in writing for such public hearing, accompanied by payment to the Building Department of a fee of $50.

(b) A preliminary plan review fee shall be charged for any public hearing held by the Planning Commission in conjunction with any required action by the Commission unless the hearing is held for the City Council, or any officer, board or commission of the municipality. The fee shall be $100 or twenty percent (20%) of that which would be required in the schedule of fees for plan approvals, whichever is greater. If a plan review fee is paid according to the
schedule of fees for a development in conjunction with the public hearing, this shall satisfy the public hearing review fee requirement. The public hearing review fee shall be applicable toward the cost of the development plan review fee provided that the development was not substantially changed. The Commission shall determine the extent of any change and the amount of the public hearing review fee applicable to the development plan review fee.

(64 Code, § 1101.01) (Ord. 2136, passed 1-21-75; Am. Ord. 3857, passed 12-19-00)

§ 1101.02 FEES FOR SUBDIVISION AND DEVELOPMENT PLAN APPROVALS.

(a) The following non-refundable fee schedule is hereby adopted for applications to the City Planning Commission for any required preliminary and final actions by the Commission in the granting of approval of division of parcels, subdivision plans, development plans or any other action of the Commission required by ordinances of the city as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Category</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-60, R-40, R-20, R-30</td>
<td>One-family Detached</td>
<td>See minor, major subdivision or PDA</td>
</tr>
<tr>
<td>R-16, R-8, R-A</td>
<td>One-family Multifamily</td>
<td>See minor, major subdivision or PDA</td>
</tr>
<tr>
<td>C-F</td>
<td>Community Facilities</td>
<td>$10/1,000 square feet</td>
</tr>
<tr>
<td>L-B</td>
<td>Local Business</td>
<td>$10/1,000 square feet</td>
</tr>
<tr>
<td>S-C</td>
<td>Shopping Center</td>
<td>$10/1,000 square feet</td>
</tr>
<tr>
<td>O-B</td>
<td>Office Building</td>
<td>$10/1,000 square feet</td>
</tr>
<tr>
<td>C-S</td>
<td>Commercial Service</td>
<td>$10/1,000 square feet</td>
</tr>
<tr>
<td>M-S</td>
<td>Motor Service</td>
<td>$25/1,000 square feet</td>
</tr>
<tr>
<td>A-P</td>
<td>Automotive Parking</td>
<td>$25/acre</td>
</tr>
<tr>
<td>M-D</td>
<td>Manufacturing and Distribution</td>
<td>$5/1,000 square feet</td>
</tr>
</tbody>
</table>
SCHEDULE OF FEES

<table>
<thead>
<tr>
<th>District</th>
<th>Category</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>M-D</td>
<td>Office Building</td>
<td>$10/1,000 square feet</td>
</tr>
<tr>
<td>O-L</td>
<td>Office Laboratory</td>
<td>$10/1,000 square feet</td>
</tr>
<tr>
<td>O-B</td>
<td>Office Building</td>
<td>$10/1,000 square feet</td>
</tr>
<tr>
<td>F-P</td>
<td>Flood Plain</td>
<td>See appropriate District</td>
</tr>
</tbody>
</table>

(1) For actions of subdivisions of land only and in any district: Minor Subdivision: $25 plus $10/acre over one (1) acre of that part being subdivided.

(2) Major Subdivision: $100 plus $10/acre over one (1) acre of that part being subdivided.

(3) Replatting: The fee for combining parcels shall be $25.

(4) Planned Development Area:
   A. Residential: $200 plus $25 per dwelling unit.
   B. Other: $200 plus fee as provided in schedule depending on zoning.

(5) Signs: $25 per sign.

(6) Unspecified including consultations with Planning Commission: $200 or as determined by the Planning Commission.

(b) An application fee of $25 shall be paid at the time of application of all requests or requests for consultations and prior to meetings for actions, either formal or informal with the Commission. This application fee shall be applicable toward the fee computed from the schedule of fees for required actions and shall be payable to the Building Department before the application is reviewed by the Planning Commission. Consultations shall require only an application fee.

(c) A minimum fee of $25 is applicable to all of the above. If significant changes to any proposal submitted to the Planning Commission are required during the preliminary or final review process, and, thereafter, revised plans are submitted for approval to the Commission, the Commission shall determine what, if any, additional fees are required in order to review such changes and it shall determine such additional fees required to defray expenses of re-review but
such fees shall not be in an amount in excess of the original required fees.

('64 Code, § 1101.02) (Ord. 2136, passed 1-21-75; Am. Ord. 3857, passed 12-19-00)

§ 1101.03 MEETINGS AND VOTING.

The Planning Commission shall set a stated time and place for its regular monthly meetings and may be called into session at any time by the Chairman or the Mayor upon advance notice of not less than twenty four (24) hours. A majority of its members shall constitute a quorum for the transaction of business, and the concurring affirmative vote of at least four (4) members thereof shall be necessary to make any recommendation, determination or finding.

('64 Code, § 1101.03) (Ord. 2386, passed 9-19-78)

§ 1101.04 PROFESSIONAL REVIEW FEE DEPOSIT REQUIRED.

(a) For each submittal of an application before the Planning Commission or Building Commissioner where a professional review is required by the City Engineer, City Architect, Director of Law or any other consultant prior to Planning Commission approval or the issuance of a permit by the Building Commissioner, the applicant shall deposit with the Building Department the sums set forth in the following schedule:

<table>
<thead>
<tr>
<th>PROJECT CLASSIFICATION</th>
<th>MINIMUM AMOUNT OF DEPOSIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Residential Subdivision</td>
<td>$1,000 plus $500 for each proposed lot</td>
</tr>
<tr>
<td>Minor Residential Subdivision</td>
<td>$500 for each proposed lot</td>
</tr>
<tr>
<td>Residential Planned Development Area</td>
<td>$1,000 plus $450 for each proposed unit</td>
</tr>
<tr>
<td>Commercial Development Less than 2,000 Square Feet</td>
<td>$1,000</td>
</tr>
<tr>
<td>Commercial Development Greater than 2,000 Square Feet</td>
<td>$2,000</td>
</tr>
<tr>
<td>Commercial Planned Development Area</td>
<td>$1,000 plus $500 for each proposed unit</td>
</tr>
<tr>
<td>Parking lot addition</td>
<td>$500</td>
</tr>
<tr>
<td>PROJECT CLASSIFICATION</td>
<td>MINIMUM AMOUNT OF DEPOSIT</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>Lot consolidation/re-platting</td>
<td>$500</td>
</tr>
<tr>
<td>Building addition less than 2,000 Square</td>
<td>$500</td>
</tr>
<tr>
<td>Feet</td>
<td></td>
</tr>
<tr>
<td>Building addition greater than 2,000</td>
<td>$750</td>
</tr>
<tr>
<td>Square Feet</td>
<td></td>
</tr>
<tr>
<td>Cellular tower and antenna</td>
<td>$1,000</td>
</tr>
<tr>
<td>Cellular tower and antenna co-location</td>
<td>$750</td>
</tr>
<tr>
<td>Unspecified Project</td>
<td>$500 or amount as specified by Planning</td>
</tr>
<tr>
<td></td>
<td>Commission</td>
</tr>
</tbody>
</table>

(b) All consultant services shall be authorized by the Planning Commission, the Mayor, the Building Commissioner or City Council. Consultant fees shall be paid out of the funds deposited by the applicant upon itemized statements submitted by such consultant and approved by the Mayor. The applicant shall receive copies of all itemized statements. Should the funds on deposit become depleted prior to the completion of the review process, the applicant, upon notification by the Director of Finance, shall re-deposit the amount as called for in the above schedule. Failure to re-deposit the amount as specified in the above schedule within five business days shall cause all work and review by the city and its consultants to cease immediately. No permit shall be issued and no city approval shall become effective until all outstanding consultant review fees have been paid in full by the applicant. Any amount remaining on deposit with the city shall be returned to the applicant upon the final completion and decision related to the application submitted to the Planning Commission or Building Commissioner by the applicant for which the deposit had been made. The Building Commissioner is also authorized to utilize any of the deposited funds for the recording of any documents as provided in § 1115.11. No filing fees shall be refunded.

(Ord. 3634, passed 3-3-98; Am. Ord. 3764, passed 9-21-99; Am. Ord. 3857, passed 12-19-00)
CHAPTER 1111: TITLE; PURPOSE

Section

1111.01 Title
1111.02 Purpose and intent
1111.03 Relation to other laws
1111.04 Interpretation
1111.05 Severability

Cross-reference:

Administration and enforcement, see Ch. 1123

Design and Construction Board of Review, see § 1327.10

Purpose and intent of Zoning Code, see § 1131.02

Subdivision regulations, see § 1113.02(q)

Zoning Code, see § 1113.02(r)
§ 1111.01 TITLE.

These Subdivision Regulations codified as Title Three of Part Eleven - Planning and Zoning Code, are the Land Planning and Subdivision Regulations of the City of Brecksville.

('64 Code, § 1111.01) (Ord. 2043, passed 12-20-72)

§ 1111.02 PURPOSE AND INTENT.

The purpose of these Subdivision Regulations and the intent of the legislative body, in its adoption, are to guide and control the planning, subdividing and development of land and to provide procedures for the administration thereof in order to promote and protect the public health, safety, convenience, comfort, prosperity and general welfare of the city and to achieve, among others, the following objectives:

(a) To encourage the orderly development and redevelopment of the land to obtain harmonious and stable neighborhoods;

(b) To provide for the reservation and dedication of land for safe and convenient pedestrian and vehicular circulation and public open spaces for schools, recreational and other public purposes;

(c) To provide for the construction of streets and utilities which will be adequate and economical to maintain;

(d) To assure the accurate surveying of land and the preparing and recording of plats; and

(e) To provide for the coordination of land development in accordance with the objectives of the Master Plan, the Street Plan, the Community Facilities Plan and the Zoning Code of the city.

('64 Code, § 1111.02) (Ord. 2043, passed 12-20-72)

§ 1111.03 RELATION TO OTHER LAWS.

The provisions of these Subdivision Regulations shall supplement any and all laws of the state, ordinances of this city, or any and all rules and regulations promulgated by authority of
such law or ordinance relating to the purpose and scope of such Subdivision Regulations.

('64 Code, § 1111.03) (Ord. 2043, passed 12-20-72)

§ 1111.04 INTERPRETATION.

In interpreting and applying the provisions of these Subdivision Regulations such provisions shall be held to be the minimum requirements for the promotion of public health, safety, convenience, comfort, prosperity and general welfare and the objectives set forth throughout the Regulations. Except as specifically provided herein, it is not intended by these regulations to repeal, abrogate or annul any existing provision of any law or ordinance or any rule or regulation previously adopted or issued pursuant to law relating to the planning and subdivision of land and the construction of improvements thereon.

('64 Code, § 1111.04) (Ord. 2043, passed 12-20-72)

§ 1111.05 SEVERABILITY.

Each section of these Subdivision Regulations and each part of such section are declared to be independent sections and parts of sections, and notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of such sections, or the application thereof to any person or circumstance, is held invalid for any reason, the remaining sections or parts of sections and the application of such provision to any person or circumstance other than as to those to which it is held invalid, shall not be affected thereby, and it is hereby declared that these Subdivision Regulations would have been passed independently of the section, sections or parts of a section held to be invalid.

('64 Code, § 1111.05) (Ord. 2043, passed 12-20-72)

CHAPTER 1113: DEFINITIONS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1113.01</td>
<td>Rules for interpretation</td>
</tr>
<tr>
<td>1113.02</td>
<td>General terms</td>
</tr>
<tr>
<td>1113.03</td>
<td>Areas, buildings and land</td>
</tr>
</tbody>
</table>
§ 1113.01 RULES FOR INTERPRETATION.

Words in these Subdivision Regulations are used in their ordinary English usage. Certain terms and words, however, are herein defined and wherever used in these Land Planning and Subdivision Regulations and the Zoning Code, shall have the meaning indicated in this chapter, except where the context clearly indicates a different meaning.

Cross-reference:

Dwelling unit area definition, measurements, see § 1151.14(a)

Interpretation of Zone Map boundary lines, see § 1135.04

Signs and classification by use types, see § 1187.03
§ 1113.02 GENERAL TERMS.

(a) The word **SHALL** is to be interpreted as mandatory and shall be complied with unless waived; **MAY** is to be interpreted as having permission or being allowed to carry out a provision; **SHOULD** is to be interpreted as expressing that the application of such criterion or standard is desired and essential unless commensurate criteria or standards are achieved.

(b) All words used in the singular shall include the plural, and all words used in the present tense shall include the future tense, unless the context clearly indicates the contrary.

(c) The phrase **USED FOR** shall include “arranged for,” “designed for,” “intended for,” “maintained for” or “occupied for.”

(d) The term **SUCH AS** shall be construed as introducing a typical or illustrative enumeration of uses. A colon used to introduce an enumeration shall be construed as being the complete enumeration of uses and not illustrative.

(e) **REGULATION.** A rule, restriction or other mandatory provision intended to control, require or prohibit an act.

(f) **STANDARD.** A test, measure, model or example of quantity, extent or quality.

(g) **CRITERION.** A principle by which the planning of a subdivision or development area shall be guided.

(h) **CITY.** The City of Brecksville.

(i) **COMMISSION.** The City Planning Commission of the City.

(j) **COUNCIL.** The City Council of the City.

(k) **BOARD.** The Board of Zoning Appeals of the City.

(l) **COMMISSIONER.** The Building Commissioner of the City.

(m) **CLERK.** The duly acting and qualified Clerk of the Council of the City.

(n) **ENGINEER.** The Engineer of the City.

(o) **PERSON.** An individual, firm, association, corporation, trust or any other legal entity, including his or its agents.

(p) **DEVELOPER.** A person commencing proceedings under this Planning and
Zoning Code to effect a subdivision or development of land for himself or for another.

(q) **SUBDIVISION REGULATIONS.** These Land Planning and Subdivision Regulations of the city codified as Title Three of Part Eleven - Planning and Zoning Code.

(r) **CODE.** The Zoning Code of the city codified as Titles Five through Eleven of Part Eleven - Planning and Zoning Code.

('64 Code, § 1113.02) (Ord. 2043, passed 12-20-72)

### § 1113.03 AREAS, BUILDINGS AND LAND.

(a) **AREA OF BUILDINGS.** The area at the ground level of the main building and all accessory buildings, excluding unenclosed porches, terraces and steps, measured from the outside surface of exterior walls.

(b) **AREA OF DWELLING UNIT.** The sum of the gross floor areas above the basement level, including those rooms and closets having the minimum ceiling height, light, ventilation and other features as required by the city Building Code and as further defined in § 1151.14 of the Zoning Code.

(c) **AREA OF LOT.** The total horizontal area within the lot boundary lines of a zoning lot, exclusive of any portion of the right-of-way of any public or private street.

(d) **GROSS DWELLING UNIT DENSITY.** The number of dwelling units per a given area, found by dividing the total number of dwelling units by the total area of the parcel to be developed, including all land proposed for streets, public use, recreation or common open space.

('64 Code, § 1113.03) (Ord. 2043, passed 12-20-72)

### § 1113.04 AUTOMOTIVE USES.

(a) **PRIVATE GARAGE.** An accessory building or part of the main building used for the parking or temporary storage of the vehicles of occupants of any one or two-family dwelling, and in which no occupation, business or service shall be conducted for remuneration.

(b) **STORAGE GARAGE.** A main or accessory building, other than a private garage, used for the parking or temporary storage of vehicles and in which no service shall be provided for remuneration.
(c) **REPAIR GARAGE.** A main or accessory building used or designed for repairing motor vehicles; a service garage if accessory to an automobile salesroom.

(d) **ACCESSORY PARKING AREA.** An open or enclosed private area, other than a street, used for the free parking of passenger automobiles for occupants, their guests or customers, of a main building.

(e) **PUBLIC PARKING AREA.** An open or enclosed publicly-owned area used for passenger automobile parking, with or without a fee.

(f) **SALES LOT.** An open area used for the display, sales or rental of new or used vehicles, on which no repair, except minor work, is performed.

(g) **SERVICE STATION.** A building and land including pumps, tanks and grease racks, used for the retail sale of gasoline, lubricants, batteries, tires and other automobile accessories and performing motor vehicle repair work.

(h) **GASOLINE STATION.** A building and land including pumps, tanks and equipment, for retail sale of gasoline and motor vehicle engine oil.

('64 Code, § 1113.04) (Ord. 2043, passed 12-20-72)

§ 1113.05 **BLOCK.**

**BLOCK.** An area of land bounded by streets, public or common land, railroad rights-of-way, shore lines or by other definite limits.

('64 Code, § 1113.05) (Ord. 2043, passed 12-20-72)

§ 1113.06 **BUILDINGS AND STRUCTURES.**

(a) **STRUCTURE.** That which is constructed on or under the ground or attached or connected thereto, including but not limited to: buildings, barriers, bridges, bulkheads, bunkers, chimneys, fences, garages, outdoor seating facilities, platforms, pools, poles, tanks, tents, towers, sheds, signs and walls; and excluding trailers and other vehicles whether on wheels or other supports.

(b) **BUILDING.** A structure which is permanently affixed to the land, having one or more floors and a roof, being bounded by either open space or lot lines, and used as a shelter or enclosure for persons, animals or enclosure for property. The term shall be used synonymously
with “structure” unless otherwise noted, and shall be construed as if followed by the words “part
or parts thereof.”

(c) **MAIN BUILDING.** The building occupied by the main use or activity on the
premises, all parts of which are connected in a substantial manner by common walls and a
continuous roof.

(d) **ACCESSORY BUILDING.** A subordinate building detached from, but located
on the same lot as the main building, the use of which is incident and accessory to that of the
main building or use.

(e) **BUILDING LINE.** Synonymous with “setback line” means a line established by
the Zoning Code, generally parallel with and measured from the “front lot line,” defining the
limits of a front yard in which no building or structure may be located above the ground except
as may be provided in such code.

(f) **DETACHED BUILDING.** A building surrounded by open space.

(g) **BASEMENT.** A space within a dwelling having its ceiling less than four feet six
inches above the adjoining ground level and which is not designed for general living space.

('64 Code, § 1113.06) (Ord. 2043, passed 12-20-72)

§ 1113.07 FAMILY.

(a) **FAMILY.** Either one individual, two or more persons related by blood, marriage
or adoption, or not more than three persons not related by blood, marriage or adoption, who live
together in one dwelling unit and maintain a common household.

(b) **ROOMER.** A person, other than a member of the family as defined in division
(a) hereof, who rents one or more rooms in a dwelling from the resident family.

('64 Code, § 1113.07) (Ord. 2043, passed 12-20-72)

§ 1113.08 DWELLINGS AND OTHER LIVING ACCOMMODATIONS.

(a) **DWELLING UNIT.** Space, within a dwelling, comprising living, dining,
sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing
and toilet facilities, all used by only one family and its household employees.

(b) **DWELLING.** A building designed or occupied exclusively for nontransient
residential use and permitted accessory uses, including one-family, two-family or multi-family buildings.

(c) **ONE-FAMILY DWELLING.** A dwelling consisting of a single dwelling unit with the main entrance to its living quarters at ground level.

(1) **DETACHED DWELLING.** A one-family dwelling which is separated from all other dwelling units by open space on all sides.

(2) **SEMI-ATTACHED DWELLING.** A one-family dwelling which shall be constructed as one of two one-family dwellings attached by a common fireproof party wall.

(3) **ATTACHED DWELLING.** A one-family dwelling which shall be constructed as one of a sequence of three or more one-family dwellings attached by common fireproof party walls.

(d) **TWO-FAMILY DWELLING.** A building consisting of two dwelling units, one above the other, having either a separate or combined entrance or entrances.

(e) **APARTMENT DWELLING.** A dwelling comprised of three or more dwelling units, arranged one above the other and/or side by side, with each unit having at least one entrance to a common hall leading to the exterior.

(f) **ACCESSORY LIVING ACCOMMODATIONS.** A building or part thereof used solely as accommodations for occupants, personal guests or persons employed on the premises, or other nonpaying transients and in which no cooking or similar housekeeping equipment is provided.

(g) **DORMITORY.** A building or group of buildings designed or intended to provide sleeping accommodations as the main use for six or more students or faculty members; cooking, dining and social facilities may be also provided, included are fraternity and sorority houses.

(h) **FOSTER HOME.** A building operated for compensation by a resident family to accommodate children of less than 18 years of age who are not members of the resident family.

(i) **ROOMING HOUSE.** A building operated for compensation by a resident family in which a room or rooms are provided for living and sleeping facilities to one or more persons.

(j) **TOURIST HOME.** A one-family dwelling operated for compensation by a resident family in which overnight sleeping accommodations are provided.

(k) **MOTEL.** A building or buildings providing overnight accommodations principally for automobile travelers in which access to each rental unit is provided directly through an exterior door.

(l) **HOTEL or MOTOR HOTEL.** A building providing overnight accommodations,
but access to each rental unit is provided through halls and a central control space.

(m) NURSING HOME. A home or facility for the care and treatment of babies, children, pensioners or elderly persons.

(64 Code, § 1113.08) (Ord. 2043, passed 12-20-72)

§ 1113.09 GRADES.

(a) ESTABLISHED STREET GRADE. The elevation established by the city at the roadway center line or curb in front of the lot.

(b) NATURAL GRADE. The elevation of the undisturbed natural surface of the ground prior to any excavation or fill.

(c) FINISHED GRADE. The elevation of the finished surface of the ground adjoining the building after final grading and normal settlement.

(64 Code, § 1113.09) (Ord. 2043, passed 12-20-72)

§ 1113.10 HEIGHT OF BUILDING.

HEIGHT OF BUILDING. The vertical distance measured from the highest point of the coping of a flat roof, or the vertical distance measured from the average level between the eaves and ridge of a pitched roof, to the average finished grade.

(64 Code, § 1113.10) (Ord. 2043, passed 12-20-72)

§ 1113.11 HOME OFFICES.

HOME OFFICES. A secondary use in a dwelling occupied by a person practicing a profession or engaged in a business as permitted in the Zoning Code.

(64 Code, § 1113.11) (Ord. 2043, passed 12-20-72)

§ 1113.12 JUNK OR WRECKING YARD.
JUNK OR WRECKING YARD. An open area where materials including, but not limited to vehicles, trailers, airplanes, equipment, building materials, waste, scrap iron and other metals, paper, rags and rubber tires are bought, sold, exchanged, stored, baled, packed, disassembled or otherwise handled.

(‘64 Code, § 1113.12) (Ord. 2043, passed 12-20-72)

§ 1113.13 LOADING SPACE.

LOADING SPACE. An open or enclosed space, other than a street, used for the temporary parking of a vehicle while its goods are being loaded or unloaded.

(‘64 Code, § 1113.13) (Ord. 2043, passed 12-20-72)

§ 1113.14 LOT, PARCEL, LAND.

(a) LOT. A division of land separated from other divisions for purposes of sale, lease or separate use, described on a recorded subdivision plat, recorded survey map or by metes and bounds.

(b) LOT OF RECORD. Land designated as a separate parcel on a plat map or deed approved by the city and filed in the records of the Cuyahoga County Recorder's Office.

(c) ZONING LOT. A parcel of land abutting a dedicated street, occupied or intended to be occupied by a land and/or accessory use, or a main or accessory building, as a unit together with such open spaces as required by the Zoning Code. Unless the context clearly indicates the contrary, lot is used synonymously with zoning lot in the Zoning Code and it may or may not coincide with a lot of record.

(d) Terminology for lot types used in these Subdivision Regulations is as follows:

(1) CORNER LOT. A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135°.

(2) INTERIOR LOT. A lot other than a corner lot with only one frontage on a street.

(3) THROUGH LOT. A lot other than a corner lot with frontage on more
than one street. **THROUGH LOTS** abutting two streets may be referred to as double frontage lots.

(4) **REVERSED FRONTAGE LOT.** A lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot, examples of which are found in Figure 1.

[See hard copy of this Code for Figure 1.]

(e) **LOT LINE.** The boundary of a lot separating it from adjoining public, common or private land, including a public street.

(f) **FRONT LOT LINE.** The lot line separating an interior lot from the street upon which it abuts; the lot line where the front elevation of the house is established of a corner lot which abuts upon a street. Unless the context clearly indicates the contrary, it shall be construed as synonymous with “street line.”

(g) **REAR LOT LINE.** A lot line parallel or within 45° of being parallel to the front lot line.

(h) **SIDE LOT LINE.** A lot line which is neither a front nor rear lot line, or is the longest lot line of a corner lot which abuts upon a street.

(i) **LOT MEASUREMENTS.** A lot shall be measured as follows:

1. **DEPTH** of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

2. **WIDTH** of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line, provided, however, that the width between side lot lines at their foremost points, where they intersect with the street line, shall not be less than 80% of the required lot width.

3. **IRREGULAR** lot measurement and frontage will be at the discretion of the Planning Commission.

(j) **PRIVATE LAND.** Land in a subdivision or development area which shall be adjoining, attached and assigned to the land occupied by a one-family dwelling, to be held as an open space in common ownership with other dwellings in the subdivision or development area for the exclusive use of the occupants of a particular dwelling unit, and which shall be identified on subdivision and development plans submitted to the city. It is similar to the term “exclusive use of the limited common areas” under condominium property.

(k) **COMMON LAND.** Land in a subdivision or development area not owned as
private land or occupied by dwellings, created for common usage by restrictions, easements, covenants or other conditions running with the land, and which is held for the use and enjoyment by or for the owners or occupants of the dwellings in a development area. It is similar to the term “undivided common areas and facilities” under condominium property.

   (l) **HOMES ASSOCIATION.** An incorporated, nonprofit organization operating under recorded land agreements through which each lot owner of a development area is a member, and each lot is subject to charges for a proportionate share of the expenses for the organization's activities, such as maintaining the common property.

(‘64 Code, § 1113.14) (Ord. 2043, passed 12-20-72; Am. Ord. 3741, passed 7-20-99)

§ 1113.15 **MAPS, PLANS, PLATS.**

   (a) **MAP.** A drawing showing geographic, topographic or other physical features of the land.

   (b) **PLAN.** A drawing of a proposed design or of work to be performed.

   (c) **PLAT.** A map of a lot, parcel or subdivision on which the lines of each element are shown by accurate distances and bearings.

   (d) **MASTER PLAN.** The plan and statement of the objectives and recommendations for the general location and extent of desirable future land development, community facilities and street plans for the city, duly adopted or officially accepted.

   (e) **COMMUNITY FACILITIES PLAN.** The plan which shows the location and extent of existing, planned and proposed parks, playgrounds, public land and buildings, and other public facilities for the city, duly adopted or officially accepted, separately or as a part of the Master Plan.

   (f) **STREET PLAN.** The plan which shows general location and extent of existing, planned and proposed streets and other transportation facilities for the city, duly adopted or officially accepted, separately or as a part of the Master Plan.

   (g) **AREA PLAN.** A plan prepared by the city for implementing components of the Master Plan and may include, but is not limited to design, bulk, use, height, location and arrangements of buildings in respect to streets, open space, other structures and natural features.

   (h) **DEVELOPMENT AREA.** The area of a parcel or assembled parcels of land required by the Zoning Code to be developed by a single owner or a group of owners, acting jointly under a planned development procedure.
(i) **SKETCH PLAN OF A SUBDIVISION.** A sketch of minor subdivisions for the purpose of study and recommendation as outlined in § 1121.02.

(j) **PRELIMINARY PLAN.** A drawing prepared by a developer for the purpose of study of a major subdivision of land, or a preliminary plan of land and buildings of a development area, and when approved by the designated authority permits proceeding with the preparation of the final plat of a subdivision or final plan of a development area.

(k) **FINAL PLAT.** The final map prepared by a developer based upon the approved preliminary plan of a subdivision, and after the land improvements are constructed, or construction guaranteed, the approved plat shall be recorded.

(l) **FINAL PLAN OF A DEVELOPMENT AREA.** The final plan prepared by a developer based upon the approved preliminary plan of a development area and consists of detailed drawings, specifications, agreements and other documents required for construction of the land improvements and buildings within a development area.

\[ ('64\text{ Code, }\S\text{ 1113.15})\text{ (Ord. 2043, passed 12-20-72)}\]

**§ 1113.16 MOTOR FREIGHT STATION.**

**MOTOR FREIGHT STATION.** A building in which freight brought by motor truck is assembled, sorted or reloaded for transshipment by motor truck.

\[ ('64\text{ Code, }\S\text{ 1113.16})\text{ (Ord. 2043, passed 12-20-72)}\]

**§ 1113.17 NONCONFORMING BUILDING, LAND AND USE.**

(a) **NONCONFORMING BUILDING.** A building existing lawfully at the time the Zoning Code (Ordinance 2042, passed December 20, 1972) or an amendment thereto, became effective but which does not conform to the area, height, bulk, building, yard or other regulations of the district in which it is located.

(b) **NONCONFORMING LOT.** A lot existing lawfully at the time the Zoning Code (Ordinance 2042, passed December 20, 1972) or an amendment thereto, became effective but which does not conform to the lot area, width, access or other requirements of the district in which it is located.

(c) **NONCONFORMING USE.** The use of a building or land existing lawfully at the time the Zoning Code (Ordinance 2042, passed December 20, 1972) or an amendment thereto,
became effective but which does not conform to the use regulations, off-street parking and loading requirements, performance standards or other use regulations of the district in which it is located.

('64 Code, § 1113.17) (Ord. 2043, passed 12-20-72)

§ 1113.18 OCCUPANCY CERTIFICATE.

**OCCUPANCY CERTIFICATE.** An official statement certifying that a building, other structure or parcel of land is in compliance with the provisions of all existing codes, or is a lawfully existing nonconforming building or use and hence may be occupied and used lawfully for the purposes designated thereon.

('64 Code, § 1113.18) (Ord. 2043, passed 12-20-72)

§ 1113.19 PERFORMANCE STANDARD.

**PERFORMANCE STANDARD.** A criterion established to control the dust, smoke, fire and explosive hazards, glare and heat, noise, odor, toxic and noxious matter, vibrations and other conditions created by or inherent in uses of land or buildings.

('64 Code, § 1113.19) (Ord. 2043, passed 12-20-72)

§ 1113.20 SIGNS.

(a) **SIGNS.** Any display figure, painting, drawing, placard, poster or other device visible from a public way which is designed, intended or used to convey a message, advertise, inform or direct attention to a person, institution, organization, activity, place, object or product. It may be a structure or part thereof painted on or attached directly or indirectly to a structure.

(b) **BUSINESS SIGN.** A sign which directs attention to the name of the business or establishment, the goods or commodities sold or services rendered on the lot on which the sign is located.

(c) **REAL ESTATE AND DEVELOPMENT SIGN.** A sign which directs attention to the promotion, development, construction, rental, sale or lease of property on which it is located.
§ 1113.21 STREETS.

(a) **STREET.** A public way for purposes of vehicular travel including the entire area within the rights-of-way. The term includes, but is not limited to, avenue, alley, boulevard, drive, highway, road and freeway. **STREETS** shall be classified and further defined as follows:

1. **FREEWAY.** A divided arterial highway for through traffic to which access from the abutting properties is prohibited and all street crossings are made by grade-separated interchanges.

2. **ARTERIAL STREET.** A public street which is primarily for moving fast or heavy traffic between large or intensively developed districts.

3. **COLLECTOR STREET.** A street supplementary to and connecting arterial streets to local streets.

4. **LOCAL STREET.** A street primarily for access to abutting properties and to serve local needs.
   
   A. **CUL-DE-SAC.** A street, one end of which connects with another street and the other end of which terminates in turning facilities for vehicles.

   B. **MARGINAL ACCESS STREET.** A local street providing access to lots which abut or are adjacent to a limited-access highway or arterial street.

   C. **LOOP STREET.** A local street, both ends of which intersect with the same street at different points and which intersects with no other street.

   D. **ALLEY.** A minor street used primarily for vehicular service access to the back or side of properties abutting on another street.

5. **PRIVATE STREET.** A street held in private ownership.

6. **RIGHT-OF-WAY.** All of the land included within an area which is dedicated, reserved by deed or granted by easement for street purposes.
   
   A. **ROADWAY.** That portion of a right-of-way available for
vehicular travel, including parking lanes.

B. **TREE LAWN.** That portion of a right-of-way lying between the exterior line of the roadway and the outside right-of-way line.

(7) Other rights-of-way as follows:

A. **PEDESTRIAN WAY.** A dedicated public right-of-way solely for pedestrian circulation.

B. **DRAINAGE WAY.** The land required for construction or maintenance of storm water sewers, or required along a drainage ditch, natural stream or watercourse.

C. **EASEMENT.** A grant by a property owner of the use of land for a specific purpose, by the general public, a corporation or another person.

(‘64 Code, § 1113.21) (Ord. 2043, passed 12-20-72)

§ 1113.22 SUBDIVISION.

**SUBDIVISION.** The division of any parcel of land shown as a unit or as contiguous units on the last preceding records of the County Auditor, into two or more parcels, sites or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership.

**SUBDIVISION.** Includes the improvement of one or more parcels of land for residential, business or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets, or as easements for the extension and maintenance of public sewers, drainage, water supply or other public facilities, and the division or allocation of land as open spaces for common use by owners, occupants or lease holders.

**SUBDIVISION.** Includes resubdivision and replatting; it also may refer to the process of subdividing and the land subdivided when appropriate to the context.

(‘64 Code, § 1113.22) (Ord. 2043, passed 12-20-72)

§ 1113.23 TRAILERS.

(a) **HOUSE TRAILER.** A vehicle which is not self-propelled, designed, constructed
or added to by means of accessories in such a manner as will permit the use and occupancy therein for human habitation; it may be supported on wheels, jacks or other supports and used or so constructed as to permit its being used as a conveyance frequently and repeatedly upon the public highways.

(b) **TRAILER PARK.** A lot occupied by, or designed to be occupied by, more than one family in house trailers, tents, camp-cars or similar facilities, and includes the roadway, structures, vehicles or other structures used or intended for use as a part of the facilities of such trailer park.

(c) **TRAILER.** A utility-type cart, wagon or van for hauling articles, designed to be pulled by an automobile or truck.

(d) **RECREATIONAL TRAILER** or **RECREATIONAL VEHICLE.** A travel trailer, pick-up truck camper, motorized house, folding tent trailer or boat and/or boat trailer which includes boats, floats and rafts, intended for or suitable for travel, recreational or vacation use.

(e) **MOTORIZED HOME** or **MOTOR HOME.** A portable device designed and constructed as an integral part of a self-propelled vehicle and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation or vacation uses.

(f) **MOBILE HOME.** A detached dwelling unit designed to be transported by highway, arriving at the site for placement involving only minor and incidental unpacking, assembling and connection to public utilities.

(64 Code, § 1113.23) (Ord. 2043, passed 12-20-72)

§ 1113.24 USE.

(a) **USE.** Any purpose for which buildings, other structures or land may be arranged, designed, intended, maintained or occupied; or any activity, occupation, business, profession or operation conducted in a building, other structure or on land.

(b) **MAIN USE.** The principal purpose of, or activity conducted in a building, other structure or land.

(c) **ACCESSORY USE.** A use located on the same zoning lot with the main use of the building, other structure or land, but incidental to the main building or land use.

(d) **CONDITIONAL USE.** A use which may be permitted in specific districts subject to the compliance with certain standards and explicit conditions set forth in the Zoning Code and the granting of a conditional use permit.
SIMILAR MAIN USE. Uses uncommon in a district but which have characteristics similar to and compatible with those uses which are enumerated and permitted by right in a district.

('64 Code, § 1113.24) (Ord. 2043, passed 12-20-72)

§ 1113.25 VARIANCE.

VARIANCE. A modification of the zoning regulations permitted in instances where a literal application of the provisions of the Zoning Code would result in unnecessary hardships as a result of some peculiar or unique condition or circumstance pertaining only to the zoning lot in question in accordance with procedures and standards set forth in Chapter 1197 of the Zoning Code.

('64 Code, § 1113.25) (Ord. 2043, passed 12-20-72)

§ 1113.26 YARDS AND COURTS.

(a) YARD. That portion of the open area on a lot extending between a building and the nearest lot line, or certain uses and the nearest lot line as established in the Zoning Code.

(b) FRONT YARD. The yard extending from the front wall of the building, or front boundary of use, to the front street right-of-way line across the full width of the lot.

(c) REAR YARD. The yard extending from the rear wall of the building, or rear boundary of the use, to the rear lot line across the full width of the lot.

(d) SIDE YARD. The yard extending between a side lot line, or side street right-of-way line, and the nearest wall of the building, or boundary of use, and from the front yard to the rear yard; provided that, for a corner lot, the side yard extends from the front yard to the rear lot line on the street side.

(e) REQUIRED YARD. The minimum yard required between a lot line and building line or the line of any parking area or any other use requiring a yard in order to comply with the zoning regulations of the district in which the zoning lot is located. A REQUIRED YARD AND FRONT YARD shall be open and unobstructed from the ground upward except for projections on buildings as permitted in the Zoning Code and except for walks, landscaping and other yard or site features.

(f) COURT. An open space other than a yard, bounded on two or more sides by
exterior walls of the building, or bounded by exterior walls of a building and lot lines.

('64 Code, § 1113.26) (Ord. 2043, passed 12-20-72; Am. Ord. 3741, passed 7-20-99)

§ 1113.27 FLOOD FRINGE.

FLOOD FRINGE. That portion of the flood plain, excluding the floodway, where development may be allowed under certain restrictions.

('64 Code, § 1113.27) (Ord. 2043, passed 12-20-72)

§ 1113.28 FLOOD PLAIN.

FLOOD PLAIN. That land, including the flood fringe and the floodway, subject to inundation by the regional flood.

('64 Code, § 1113.28) (Ord. 2043, passed 12-20-72)

§ 1113.29 FLOOD, INTERMEDIATE, REGIONAL.

FLOOD, INTERMEDIATE, REGIONAL. Large floods which have previously occurred or which may be expected to occur on a particular stream because of like physical characteristics. The intermediate regional flood generally has an average frequency of the 100-year recurrence interval flood.

('64 Code, § 1113.29) (Ord. 2043, passed 12-20-72)

CHAPTER 1115: LAND SUBDIVIDING PROCEDURES

Section

1115.01 Intent
1115.02 Pre-application; development information available
1115.03 Minor subdivision - application
1115.04 Minor subdivision - recording
§ 1115.01 INTENT.

(a) Procedures are hereby established in this chapter for achieving effectiveness, efficiency and uniformity in the administration of these Subdivision Regulations, including:

(b) Procedures by which a developer may obtain information, plan land developments, make applications for review, record plats and construct land improvements;

(c) Procedures by which the Planning Commission may review, study, make recommendations, approve the plans and plan and otherwise administer these Regulations; and

(d) Procedures for planning and developing land consistent with procedures for planned development, areas which include buildings as set forth in Chapter 1195 of the Zoning Code, and in accordance with the objectives of the Master Plan.

(64 Code, § 1115.01) (Ord. 2043, passed 12-20-72)

§ 1115.02 PRE-APPLICATION; DEVELOPMENT INFORMATION AVAILABLE.

The city shall make available copies of these Subdivision Regulations, the Zoning Code, the Street Plan, Community Facilities Plan and other maps and relevant information at a cost to be determined by Council. Any developer may request an advance discussion of the procedures...
§ 1115.03 MINOR SUBDIVISION - APPLICATION.

(a) Classification. A subdivision, as defined in § 1113.22, is classified as a minor subdivision if it comprises a division of a parcel of land along an existing public street not involving the opening, widening or extension of any street or road, not involving the installation of any public utilities and not involving more than five lots after the original tract and all the contiguous land owned by the developer has been completely subdivided. The replatting of not more than five lots along a public street is also classified as a minor subdivision.

(b) Application. An application for approval for each minor subdivision, including a sketch plan complying with the requirements set forth in § 1121.02, shall be filed by the developer with the secretary of the Planning Commission. The Commission shall take action upon the application at the next regularly scheduled meeting after receipt of all required information.

(c) Approval. The Planning Commission may recommend approval of a minor subdivision to Council if the Commission finds, after reviewing the proposed division of land that:

(1) Not more than five lots will be created and all the land in the original tract and all the contiguous land owned by the developer would be completely subdivided; and

(2) The sketch plan is properly coordinated with adjoining developments and adjoining unplatted land; and

(3) The sketch plan complies with the planning criteria and other provisions of these Subdivision Regulations and other codes and plans of the city applying to minor subdivisions.

A notation of the action taken shall be made on the sketch plan by the secretary, chairman or other officials as may be designated by the Commission. Six prints of the approved sketch plan shall be furnished to the Commission.

If the Commission determines the proposal should be reviewed as a major subdivision, or if the proposal cannot be approved for other reasons, the Commission may suggest revisions to the plan before it is resubmitted.

('64 Code, § 1115.03) (Ord. 2043, passed 12-20-72)
§ 1115.04 MINOR SUBDIVISION - RECORDING.

After approval of the sketch plan of a minor subdivision, the developer shall submit a conveyance with either a metes and bounds description or plat, as required by the Planning Commission, to the City Engineer for review. If he finds it complies with the approved sketch plan and is otherwise satisfactory, he shall certify the approval thereon within seven working days after he has received it. The approval shall expire within 120 days unless the deed description or plat has been filed and recorded in the office of the County Recorder, and the Commission so notified in writing by the developer.

(64 Code, § 1115.04) (Ord. 2043, passed 12-20-72)

§ 1115.05 MAJOR SUBDIVISION - PRELIMINARY PLAN.

(a) Classification. A subdivision, as defined in § 1113.22, is classified as a major subdivision if more than five lots are created or if any subdivision or resubdivision involves the opening, widening or extension of any street, the allocation of land for open space for common use, or the granting of easements for the extension and maintenance of water supply, sewer disposal or other public facilities in connection with the improvement of one or more parcels of land for residential, business or industrial developments.

(b) Application. An application for approval, along with six black-on-white prints' of the preliminary plan, or alternate plans complying with the planning criteria set forth in § 1119.03, shall be submitted to the secretary of the Commission for each proposed major subdivision. The purposes of the preliminary plan are to explore the best subdivision design and its relationship to adjoining developments or vacant land, to outline a program of land improvements and obtain the suggestions and recommendations of the Commission before a firm plan is prepared. Wherever a planned unit development is proposed, the preliminary subdivision plan shall be combined with an application for a planned development area, pursuant to Chapter 1195 of the Zoning Code.

For subdivisions where public utilities are not accessible at the site or where rezoning is involved, the developer may submit as a pre-application step, a sketch plan and an outline program for land improvements without all of the required maps, data and plans before proceeding with the preliminary plan as otherwise required.

(c) Planning Commission action; approval.

(1) Whenever the Planning Commission has received an application and all of
(2) The Commission, in addition to its review, may refer the subdivision plans to any interested agencies, its planning and architectural consultants, and to the City Engineer for preliminary review, comments and recommendations. Review of the development plans shall consist of:

A. Compliance with all relevant land planning and zoning regulations;
B. Coordination and integration of subdivision design with the surrounding natural features and developments.
C. Conformance with the components of the Master Plan.

(3) After reviewing the aforementioned comments and recommendations and noting any nonconformance, the Commission may require that the plans be revised prior to setting a date for a public hearing. Notice of the date, time and place of the public hearing shall be provided at least ten days prior to the date of the hearing, by being published at least once in a newspaper of general circulation in the city and mailed to the owners, as shown on the current records of the County Recorder, of contiguous properties and any other property owners deemed by the Planning Commission as affected by the proposed development. Failure of delivery or receipt of such notice shall not invalidate the proceedings. All applicable fees shall be paid by the applicant prior to notice of the public hearing. The applicant shall present at the public hearing all plans and information required for preliminary approval. Within 75 days after the public hearing, the Commission shall recommend to Council the approval, approval with modifications or conditions, or denial of the preliminary development plans.

(4) Within 60 days after the Commission's recommendation, Council shall approve as recommended by the Commission, approve with modifications or additional conditions, or deny the preliminary development plans. Upon approval by Council, the Chairman and Secretary shall affix their signatures to approved copies of the plans. In the absence of the Chairman or Secretary, the Vice-Chairman may sign the plans. The approval shall be subject to all conditions and modifications imposed by Council.

(64 Code, § 1115.05) (Ord. 2043, passed 12-20-72; Am. Ord. 3580, passed 8-5-97)

§ 1115.06 MAJOR SUBDIVISION - FINAL PLAT.

(a) Application. An application for approval of a final plat shall be filed with the secretary of the Planning Commission within one year after authorization by Council to proceed
unless the Commission extends the time.

The application shall include the original tracing of the final plat, the original tracing of the drawings for the required improvements, three black-on-white prints of each tracing, three sets of specifications, and other maps, data and certificates as required and set forth in § 1121.04.

The developer may apply for final plat approval for only that section of an approved preliminary plan of a subdivision which he proposes to develop and record as the first stage, however, the approval of any section of the preliminary plan shall become null and void if an application for final plat approval is not submitted within one year after approval of the preliminary plan, unless an extension of time is granted by the Commission.

(b) Review by City Engineer. The secretary of the Commission shall transmit two prints of each drawing and the specifications to the City Engineer for determination if:

(1) The final plat conforms to the approved preliminary plans and any special conditions or modification stipulated, and for correctness of mathematical data and computations; and

(2) The designs and details of the required improvements as shown on the drawings and specifications are in conformance with the plans for utilities and streets and constructed in conformance with the approved standards of the city. One copy of the drawings and specifications shall be returned to the Commission within ten days indicating his findings and recommendations.

(c) Action by the Planning Commission. If the City Engineer determines the final plat, drawings and specifications are satisfactory in regard to the aforesaid provisions and if the subdivision complies with all other applicable provisions of these Subdivision Regulations, the Commission shall approve it. Action shall be taken within one month after the meeting at which the application for approval and all required plats, maps and data were submitted to the Commission, or an extension of time set by the Commission.

The Commission shall act upon the final plat, drawings and specifications, either separately or concurrently, but in no event shall it approve the final plat for recording until the improvements are constructed by the developer or their construction guaranteed by an approved surety bond. The amount of the bond shall be the estimated costs of the improvements, as estimated by the Engineer. The form of the bond shall be approved by the Director of Law.

(d) Form of approval. The approval of the final plat shall be indicated by a certification to that effect on the original tracing of the plat with the signature of the chairman and secretary of the Planning Commission. The Commission shall obtain one duplicate tracing thereof at the developer's expense before returning the tracing to him. The reason for disapproval of a plat shall be stated in the records of the Commission.
The approval of the drawing and specifications for the required improvements shall be indicated by a certification to that effect on the original drawings and specification with the signature of the City Engineer. Approval of the improvements as constructed shall likewise be certified by the Engineer.

(e) **Recording.** The developer shall file the approved final plat in the office of the County Recorder. The approval of the Planning Commission shall expire within 60 days unless within that period the plat has been duly filed and recorded and the Commission so notified in writing by the developer. If the final plat is revised in any manner after approval, a new approval shall be necessary.

(f) **Effect of approval and recording.** If drawings and specifications for improvements are approved and construction guaranteed, the final plat may be approved and recorded, construction of improvements started, building permits issued and lots may be sold, leased or transferred.

Occupancy permits for a building shall not be issued until streets and utilities are accepted by Council for public use; however, a temporary occupancy certificate may be issued upon the condition that the developer assumes all responsibility for maintenance of streets and utilities until officially accepted by Council.

(‘64 Code, § 1115.06) (Ord. 2043, passed 12-20-72)

§ 1115.07 LAND FOR PUBLIC AND COMMON USE.

(a) **Dedication for public use.** The plat shall be submitted to Council for acceptance of dedication of any land for public use and acceptance of any easement before it is recorded. The acceptance of any street or utility for public use and maintenance and assignment of street names shall be by separate Council action.

(b) **Land reserved for public use.** In addition to land for local streets which principally serve the subdivision under consideration, the city may request by resolution that land for other streets, for parks, playgrounds or other public uses as shown on the official Master Plan, the Street Plan or Community Facilities Plan or determined by adopted standards, be set aside and reserved for a period of 120 days after the application for approval of a preliminary plan of a subdivision is submitted, or for a longer period as may be mutually agreed, to allow the city time to start proceedings to acquire such land by gift, purchase, exchange, devise or appropriation.

(1) During such period, no structure shall be erected, no trees or topsoil shall be removed or destroyed, no grading shall be done, nor shall any land so reserved be put to any
use whatsoever except on written approval of the Planning Commission.

(2) If land for a recreational use is shown within a proposed subdivision on an official plan, the developer may be required to contribute land, or if no land for recreational use is shown within a proposed subdivision on an official plan, the developer may be required to contribute a fee to a land acquisition fund for playground use. Any required contributions of land or a fee shall be in accordance with established standards based on costs prorated among the properties served by the recreation facility.

(c) Common land. Whenever a developer submits a plan showing common land either for recreation, streets, pedestrian circulation or other purposes, the covenants, and restrictions of such land shall be submitted with the plans of the subdivision to the Planning Commission. The Commission shall not approve any common land unless such covenants and restrictions set forth that the common land shall be:

(1) Used only for the uses set forth in the restrictions and covenants;
(2) Improved by the developer;
(3) Owned by a home association, condominium ownership or similar private organizations with owners of each dwelling unit having a share in the common land; and
(4) Maintained at no cost to the city with the owner of each dwelling responsible for his share of the maintenance cost, which share when not paid shall be a lien against the property.
(5) Such covenants and restrictions are as approved by the Law Director.

('64 Code, § 1115.07) (Ord. 2043, passed 12-20-72)

§ 1115.08 MULTI-FAMILY, BUSINESS AND INDUSTRIAL SUBDIVISIONS.

(a) An application and preliminary plan shall be submitted by the developer to the Planning Commission for all proposals for multi-family, business and industrial subdivisions involving the division or allocation of land for open spaces for common use, for the opening or extensions of streets or as easements for the extension and maintenance of sewers, water supply or other public facilities.

(b) The preliminary plans of such subdivisions shall be planned in accordance with the planning criteria established in Chapter 1117 and all maps, plans and other data required and set forth in § 1121.03 shall be furnished if determined applicable by the Commission.

(c) All procedures, maps and other data required and set forth in § 1121.04 shall be
complied with and furnished if determined applicable by the Commission in the preparation of final plats of subdivisions where streets or other areas are to be used by the public and public utilities are to be constructed.

(‘64 Code, § 1115.08) (Ord. 2043, passed 12-20-72)

§ 1115.09 CITY MAP.

In order that proposed subdivisions may be properly planned and reviewed, a map of the city showing all streets, lot lines and topographic contours, shall be kept up to date by the City Engineer and maintained on file by the Clerk of Council. Preliminary plans, when approved, shall be indicated on a print of the city map, and every final plat or deed description, when recorded, shall be added to the tracings thereof.

(‘64 Code, § 1115.09) (Ord. 2043, passed 12-20-72)

§ 1115.10 RESUBDIVISION AND VACATION.

An application for resubdividing, replatting or vacation of a subdivision or a part thereof, shall be made by the owner or owners to the Commission in the same form as for an original subdivision along with all required maps and other information. The original lots shall be shown by dotted lines, and lot numbers and other references made to previously recorded subdivision. After a replatting or vacation is approved by the Planning Commission it shall be submitted to the Clerk of the Court of Common Pleas if required by the provisions of R.C. §§ 711.17 through 711.31, inclusive.

(‘64 Code, § 1115.10) (Ord. 2043, passed 12-20-72)

§ 1115.11 RECORDING AND FILING OF ALL DEVELOPMENT DOCUMENTS; FEES.

(a) The owner and/or developer of any land, immediately after receiving approval to subdivide, consolidate and/or develop or improve such land, shall deposit with the Building Commissioner the originals, and any amendments made thereto, of all plats, deed restrictions, declarations of covenants and restrictions for use of land, articles of incorporation for homeowner associations, easements, and deeds transferring all common lands to a homeowner's association and all other related documents which require recording and/or filing with any
governmental entity. The Building Commissioner shall cause such documents to be recorded with the appropriate governmental entity and a copy of the recorded document shall be retained by the Building Commissioner for the city's records. All originals, except grants to the city, shall be returned to the owner and/or developer.

(b) The Building Commissioner shall establish a schedule of fees based upon the actual costs, including document filing service company fees, of recording or filing documents with various governmental entities. The owner and/or developer, at the time the original documents are deposited with the Building Commissioner, shall either deposit the applicable recording fees, as determined by the Building Commissioner, with the Building Commissioner or the Building Commissioner is authorized to utilize any funds on deposit with the city from the owner and/or developer pursuant to § 1101.04 of this chapter.

(c) No building permit shall be issued for the construction of any house, building, or other structure unless and until the provisions of this section have been complied with by the owner and/or developer unless otherwise permitted by the Safety Director.

(Ord. 3881, passed 12-21-99)

CHAPTER 1117: PLANNING CRITERIA

Section

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1117.03 Arterial and collector streets
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1117.08 Design of blocks
1117.09 Design of lots
1117.10 Public land uses

Cross-reference:

Defining block, see § 1113.05
Defining streets, see § 1113.19
Design and Construction Board of Review, see § 1327.10
§ 1117.01 INTENT.

Planning criteria are hereby established as fundamental principles and each are to be applied with professional skill in the planning, subdividing and resubdividing the land so as to achieve, among others, the following purposes:

(a) To provide for the planning of attractive and harmonious neighborhoods and to take advantage of the topography and natural features;

(b) To relate the planning of neighborhoods to a pedestrian and vehicular circulation system, to implement the Street Plan and to provide convenient and safe local streets;

(c) To provide quiet neighborhoods, to plan a common green area network where desired, under all types of neighborhood planning; however, each lot shall form a functional building site;

(d) To provide for the implementation of the Community Facilities Plan by reserving and acquiring sites for public uses;

(e) To provide for planned unit industrial subdivisions by the application of the same basic planning criteria; and

(f) To provide for the coordination of planning and division of land in connection with planned development areas where buildings are included, and to carry out the objectives of the Master Plan.

('64 Code, § 1117.01) (Ord. 2043, passed 12-20-72)

§ 1117.02 TOPOGRAPHY AND NATURAL FEATURES.

Land developments shall be planned to take advantage of the topography of the land in order to utilize natural contours, to economize in the construction of drainage facilities, to reduce the amount of grading, and to minimize destruction 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 neighborhoods. Detailed topographic maps shall be utilized in the land planning.
(a) **Streets and topography.** Land which is relatively flat or of very gentle undulations shall be planned so that the streets follow the natural drainage courses and, insofar as possible, all building sites shall be above the street grade. On more irregular topography, streets should follow the ridges or be planned approximately parallel to contour lines and designed to avoid extensive cuts and fills.

(b) **Natural drainage.** All developments, particularly of land of very gentle slopes, shall be designed to take advantage of natural contours so that all the land can be drained with the minimum of reshaping. Unless watercourses or drainage ways are enclosed, the plan shall be adjusted so that rear lot lines or areas held as public or private common land shall be approximately parallel to the natural or straightened watercourse, and only where such a plan is not practical may side lot lines be arranged parallel to an open drainage course. Easements for drainage ways and low-lying areas which are subject to flooding may be included as part of a lot but shall not be utilized as a building site.

(c) **Natural features.** Natural features, irregularities, changes in level, brooks, hills and other focal points within the site, and distant views outside the subdivision shall be coordinated with the design to obtain natural variety and interest in each neighborhood and the most attractive building sites and view possible. Trees, topsoil and other natural resources shall be preserved and utilized in the development of the subdivision. Certain required dimensions may be adjusted to preserve such features when approved in accordance with the provisions of these Subdivision Regulations and Chapter 1195 of the Zoning Code.

(‘64 Code, § 1117.02) (Ord. 2043, passed 12-20-72)

§ 1117.03 **ARTERIAL AND COLLECTOR STREETS.**

Streets shall be designed to implement the Street Plan, to be in accord with the functions served as classified in § 1113.21, and to be related to the use of abutting land. Furthermore, streets shall be designed to comply with planning criteria as follows:

(a) **Arterial street system.** The arterial street system shall be planned in compliance with the duly adopted Street Plan, and unless shown otherwise on such plan, arterial streets shall be planned for continuation of existing streets in the system and at the same width, or at greater width in accordance with adopted standards. Access to arterial streets shall be controlled in the interest of public safety and to maintain the design capacity of the street system. Arterial streets should be planned to have a minimum distance of 600 to 800 feet between intersections. Access driveways to developments between intersecting streets should be regulated insofar as possible to one driveway at intervals of 200 feet by combining the access to several developments, or by other means.
(b) **Collector street system.** Collector streets connect the local residential street system and the main highway and should be oriented to one or more focal points of traffic generation. They should be planned for continuity and will normally contain a relatively large number of intersections with local streets.

(c) **Relation to residential developments.** Wherever a one-family residential development abuts an arterial street, the Planning Commission may, in order to protect residential property from the movements of heavy traffic and to control intersections with arterial streets, require:

1. Marginal streets parallel to the arterial street;
2. Reverse frontage lots between an arterial street and a parallel local street with screen planting located in a nonaccess reservation along the right-of-way line of the arterial street;
3. The fronting of lots with extra width on perpendicular local streets; or
4. Lots with extra depth fronting on the arterial street with access provided by combined driveways.

(d) **Right-of-way widths.** The right-of-way for arterial streets shall be determined by the Planning Commission but in no case shall the right-of-way be less than 80 feet. The right-of-way for collector streets shall be not less than 70 feet.

('64 Code, § 1117.03) (Ord. 2043, passed 12-20-72)

**§ 1117.04 LOCAL STREET PATTERN IN RESIDENTIAL AREAS.**

The primary function of local streets is to provide direct access to each lot and development. The local street system should be designed to minimize through traffic movements. This can be accomplished by adequate peripheral collector street capacity, and by creating discontinuities in the local street pattern, by offsetting local street intersections and providing loop streets or cul-de-sac streets.

The pattern should be logical and comprehensive for the convenience of the local residents and visitors, and for providing services. The design should be planned to provide these basic functions without having to rely on extensive traffic regulations. The streets should be designed for uniformly low volumes of traffic, commensurate with residential amenities, and to discourage speeds of more than 25 miles per hour. The amount of space devoted to local streets should be minimized for costs and economy of land use.
There should be a basic underlying design related to the topography and natural features. The pattern should also be related to attaining functional, economical and practical patterns, shapes and sizes of areas for development. Necessary traffic generators such as schools, bus routes and playgrounds should serve as focal points in the pattern and such routes should have a minimum number of pedestrian crossings. There should be a minimum number of intersections; “T”-intersections should predominate, cross intersections should be minimized.

(a) Right-of-way and pavement widths. Whenever local streets are planned in accordance with the criteria set forth in this section, the right-of-way width of such street shall be 60 feet and the pavement width between curbs shall be 26 feet. The Planning Commission, however, may approve a right-of-way width of 50 feet, and a pavement width of 24 feet for cul-de-sac streets serving less than 15 dwelling units or a loop street serving less than 30 dwelling units.

(b) Intersections. Arterial and collector streets shall be designed to intersect as nearly at 90° as possible; no arterial or collector street shall intersect another at less than 70°. Local streets shall be designed to intersect at not less than 50°. The intersection of more than two streets at a point or with center line offsets of less than 200 feet shall not be permitted.

The vertical alignment or grade within 100 feet of an intersection should not exceed three percent for arterial, 5% for collector, and 7% for local. An unobstructed sight triangle of not less than 75 feet measured along the center lines of the intersecting streets shall be provided. Property lines at street intersections should be rounded with a radius of not less than 30 feet for arterial streets; 20 feet for collector streets; and 12 feet for local streets.

(c) Vertical alignment. The maximum grade for local streets should not exceed four percent in ordinary terrain (0% to 8%); grades exceeding eight percent should be permitted for only short distances of approximately 200 feet. A rate of change of three to four percent per 100 feet is the maximum recommended to provide a safe sight distance.

(d) Horizontal alignment. Properly designed curving residential streets are encouraged; angles of horizontal alignment of the center lines of streets shall be connected by a curve with a radius of not less than 150 feet; between reverse curves there shall be a center line tangent of not less than 100 feet.

(e) Cul-de-sac streets. Cul-de-sac streets or permanent dead-end streets shall be permitted where parcels are surrounded by allotments, where irregular topography would require excessive grading for continuous streets, or where other types of non-through streets would not provide sufficient discouragement of through traffic.

All cul-de-sac streets shall be terminated with a permanent turnaround or square having a minimum curb radius of 50 feet and a street property line radius of 65 feet. Cul-de-sac streets shall not exceed 800 feet in length unless an additional turnaround or square is provided. If the
cul-de-sac street does not open in the direction of schools or playgrounds, a pedestrian way may be required. In addition, the Planning Commission may require that the center of the turnaround be planted with permanent evergreens and ground cover, and that the turnaround be designed to provide additional parking spaces.

(f) *Temporary dead end streets.* Where a proposed subdivision adjoins undeveloped land, a temporary “T” turnaround, may be provided for each street if not more than 500 feet in length. Provisions shall be made for the future extension of such streets and utilities, and for the reversion of the excess right-of-way to the abutting properties.

(g) *Streets of nonconforming width.* Streets of less than the required width shall not be permitted except where the Planning Commission finds such a street will be adequate to serve the proposed development. Wherever property abuts a street which does not conform to the width required by the Street Plan, these Subdivision Regulations or plans of the county or Ohio Highway Department, the additional width shall be provided when the land is subdivided.

(h) *Reserve strips adjoining streets.* A division of land to prevent access or extensions to pavement and/or utilities to another property shall not be permitted except where the control and provisions for disposal of such land division has been assigned to the city.

(i) *Driveways.* Driveways shall be located at least 60 feet from the intersection of the projection of the right-of-way lines of the nearest intersecting streets.

(j) *Street names.* Names shall be selected which will not duplicate or be confused with the names of existing streets in Cuyahoga County irrespective of modifying terms such as street, avenue, boulevard, and the like. Streets that are or will eventually be continuations of existing or platted streets shall be named the same. Street names shall be subject to the approval of the Planning Commission.

('64 Code, § 1117.04) (Ord. 2043, passed 12-20-72)

§ 1117.05 STREETS FOR APARTMENT DEVELOPMENTS.

(a) Streets serving apartment buildings shall be planned to connect with arterial or collector streets so as to not generate traffic on local residential streets. Vehicular and pedestrian access shall be adequate and convenient to each dwelling unit; planned so that a street, service drive, parking area or delivery area will be located not more than 100 feet from every main or service entrance of every apartment building.

(b) The criteria for horizontal and vertical alignment, intersections and other design criteria of streets in apartment developments shall be the same as the design criteria for one-family subdivisions. The distinguishing feature is the heavier traffic volumes caused by the
greater population density. A cul-de-sac street shall not exceed 300 feet in length. The minimum rights-of-way shall be not less than 60 feet; the minimum paved surface between curbs shall be 32 feet.

(64 Code, § 1117.05) (Ord. 2043, passed 12-20-72)

§ 1117.06 STREETS FOR BUSINESS DEVELOPMENTS.

(a) Streets serving business developments and accessory parking areas shall be planned to connect with arterial streets so as to not generate traffic on local residential streets. The intersection of service streets or driveways from parking areas with arterial or collector streets shall be located so as to cause the least possible interference with the movement of traffic on the arterial streets, and wherever possible shall be located not less than 100 feet from the intersection of an arterial or collector street, measured from the intersection of the projection of the right-of-way lines or spaced not less than 200 feet from each other.

(b) Parking areas serving adjoining business establishments shall be interconnected by on-site drives and designed to provide the maximum safety and convenience, and to accomplish such purposes, the Commission may require marginal service roads along arterial streets.

(64 Code, § 1117.06) (Ord. 2043, passed 12-20-72)

§ 1117.07 STREETS FOR INDUSTRIAL SUBDIVISIONS.

(a) Collector streets for industrial subdivisions shall be planned to serve industrial areas exclusively and shall connect with arterial streets so that no industrial traffic will be directed onto any residential streets. The intersections of service streets and access driveways to parking areas with arterial streets should be located at intervals of not less than 200 feet in the interest of public safety and to maintain the design capacity of the street.

(b) The street layout of the industrial subdivision shall be planned to provide the lot areas and widths as required in the Zoning Code; it may be planned for progressive extension as the subdivision is developed. The street plan shall be in general conformity with plans for the development of the adjoining industrial areas and the adopted Street Plan. Streets shall be planned to be extended to the boundaries of any adjoining land planned for industry, except for topographic or other physical conditions, or if the Planning Commission finds such extension is not in accord with the approved plan of the area. In such locations, the Commission may permit a
cul-de-sac street as a temporary measure as part of a progressive development program.

(c) The minimum pavement width shall be 32 feet; the minimum radius of curbs at intersections shall be 35 feet; the minimum right-of-way shall be not less than 70 feet. Each street shall be of sufficient width to safely accommodate the projected traffic volumes and access for fire protection equipment. The pavement turnaround shall have a minimum outside curb radius of 55 feet and a property line radius of at least 65 feet. The criteria for horizontal and vertical alignment, intersections and other design criteria shall be the same as set forth in this chapter for collector streets.

('64 Code, § 1117.07) (Ord. 2043, passed 12-20-72)

§ 1117.08 DESIGN OF BLOCKS.

The boundaries and lines of blocks and other parts of neighborhoods shall be designed and adjusted to conform to the topography and natural features to the corporation lines, to the street planning criteria as set forth in § 1117.04, to accommodate lots and building sites of the size and character required for the district as set forth in the Zoning Code and to provide for the required community facilities.

(a) **Size of blocks.** For one-family subdivisions the length of blocks shall be planned to average 2,000 feet and shall not exceed 2,500 feet or be less than 800 feet unless approved by the Planning Commission. The width of blocks shall be planned to accommodate two tiers of lots. A single tier of lots may, however, be required by the Commission to separate residential development from major streets as set forth in § 1117.03, from adjoining nonresidential land uses, from areas of unusual topographic or natural features and tiers of lots may be separated by common green areas.

(b) **Small subdivisions.** Whenever a parcel is too small to be planned for the use intended and would result in fractional or odd-shaped lots, lack of street frontage or otherwise not conform to the planning criteria of these Subdivision Regulations and the Zoning Code, the Commission may request the developer to include adjoining unsubdivided land so that the project may be coordinated with the neighborhood and eventually developed as a unit.

(c) **Pedestrian circulation.** Pedestrian ways of not less than 20 feet in width may be required for walkways across excessively long blocks or at the end of cul-de-sac streets for access to schools, playgrounds or bus stops, or to other public facilities where convenient pedestrian circulation has not been provided by the street pattern.

('64 Code, § 1117.08) (Ord. 2043, passed 12-20-72)
§ 1117.09 DESIGN OF LOTS.

Each lot shall be designed to form a functional site for the type of dwelling and the ancillary open space and the lot lines shall not be considered as merely a geometric shape enclosing the minimum requirements. The lots shall generally be rectangular in form; triangular, elongated or other shapes that restrict its use as a building site and utilization of yards shall be avoided.

(a) Area and width of lot. In residential subdivisions the area and width of lots shall be in accordance with the requirements set forth in the Zoning Code, which requirements shall be construed as absolute minimum and not as optimum dimensions. The width of lot shall be not less than required at the front yard building line, on curved streets the arc of the front lot line or a rear lot line shall be not less than 60% of the required width at building line.

(b) Depth of lots. The depth of lots abutting a local street in a proposed one-family subdivision should not exceed 3½ times its width. This ratio shall be increased when the rear line of such lots abuts a railroad, a freeway, other nonresidential land uses or where the rear yard contains rugged topography. Lots abutting major streets may exceed the aforesaid depth ratio as set forth in § 1117.03 in order to increase the safety and privacy thereon.

The city may prepare a local street plan of partially subdivided areas and reserve openings at intervals along the major roads for future local streets to serve the interior areas in accordance with duly adopted mapped street procedures.

(c) Corner lots. In one-family subdivisions, corner lots shall have extra width to obtain the required side yards and building setback from and to obtain appropriate orientation to both streets and as set forth in the Zoning Code.

(d) Side lot lines. In one-family subdivisions, side lot lines shall be designed to be at approximately right angles to street lines or radial to curved street lines. Where a street intersects another to form “T” intersection, the side lot lines shall be planned so that one line will be located approximately on the projected center line of the street which terminates.

('64 Code, § 1117.09) (Ord. 2043, passed 12-20-72)

§ 1117.10 PUBLIC LAND USES.

These Subdivision Regulations shall aid in the implementation of the Community Facilities Plan as follows:
(a) **Sites for community facilities.** Sites for parks, playgrounds, schools and other public uses as shown on the duly adopted Community Facilities Plan, if located in whole or in part in a proposed subdivision, shall be incorporated in the subdivision plan and the land reserved for such purposes. Drainage courses, ponds, lakes or isolated parcels shall not be accepted for public use and maintenance unless conforming with the plan for public lands.

(b) **Utility easements.** Where utilities are not located in the street, easements at least 12 feet total width shall be located on the center of rear lot lines or on side lot lines where necessary.

(c) **Drainage ways.** Where a subdivision is traversed by a drainage way, channel, or stream, a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse shall be established. Such easements shall be not less than 20 feet wide, exclusive of the required lot area, or of such further width as deemed adequate for the purpose. Rear lot lines should be planned along such drainage ways.

('64 Code, § 1117.10) (Ord. 2043, passed 12-20-72)

**CHAPTER 1119: REQUIRED IMPROVEMENTS**

Section

1119.01 Intent
1119.02 Improvements required
1119.03 Grading
1119.04 Drainage facilities
1119.05 Sanitary facilities
1119.06 Water supply
1119.07 Electric, telephone, and cable television service
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1119.09 Pavement, curbs, driveways, foundation walls, use of masonry, parking area and sidewalk specifications
1119.10 Monuments
1119.11 Street trees
1119.12 Street name signs
1119.13 Extra-size and off-site improvements
1119.14 Design standards
1119.15 Performance guarantee in lieu of installation
1119.16 Public improvement maintenance fund
§ 1119.01 INTENT.

Provisions for requiring improvements are hereby established to be applied to each proposed subdivision and resubdivision for designing, constructing and assuring the construction of land improvements so as to achieve, among others, the following purposes:

(a) The natural site assets such as existing trees and topsoil shall be preserved and the site graded to the extent necessary to provide a system of drainage;

(b) All on-site and off-site extensions of pavements and utilities shall be constructed to complete the street and utility system;

(c) The city is assured all required improvements are constructed for the entire project, or for a progressive series of parts thereof; and

(d) To provide measures for enforcement thereof by withholding recording and transfer of land until the construction is satisfactorily completed.

('64 Code, § 1119.01) (Ord. 2043, passed 12-20-72)

§ 1119.02 IMPROVEMENTS REQUIRED.

The developer shall provide and install at his expense the improvements required herein, or he shall provide financial guarantees in lieu of actual installation as precedence to the recording and sale of lots and the issuance of building permits. For industrial subdivisions, the Planning Commission may, however, permit that the improvements be installed on an assessment basis.

(a) Improvements within the subdivision. Land for rights-of-way for all local and collector streets within the subdivision, and land for the widening or extension of arterial streets on the boundary of any proposed subdivision shall be dedicated by the developer and all
easements shall be provided.

(1) Utilities and pavements shall be furnished and installed as hereinafter required and they shall be of such sizes and capacities as are required for the development of the proposed subdivision, and as may be necessary to serve adjacent undeveloped land which is an integral part of the service area.

(2) The developer shall be required to extend improvements to the boundary of the proposed subdivision to serve adjoining unsubdivided land; however, where the Commission determines that a connecting street is necessary for the future subdividing of adjoining land, but the present construction of pavement and/or utilities therein are not warranted, the Commission may require the dedication of land for such connecting street and the pavement for the intersections constructed and connections to the utilities made available for future extension.

(b) Off-site extensions. The construction of off-site improvements to serve a proposed subdivision may be required of the developer as a precedence to approval if adequate utilities or streets are not available at the boundary of the proposed subdivision, provided the Commission finds the extension of the improvements across undeveloped or unserved areas would not be warranted as a special assessment to the intervening properties or a municipal expense until some future date.

(64 Code, § 1119.02) (Ord. 2043, passed 12-20-72)

§ 1119.03 GRADING.

The developer shall prepare a grading plan for each subdivision in order to establish street grades, floor elevations of buildings and a system of drainage for private lots, all in proper relation to each other and to existing topography, as follows:

(a) Grading of block. The grading plan for the block shall be in accordance with criteria as set forth in § 1117.02. The purposes are to divert water away from buildings, to prevent standing water and soil saturation detrimental to buildings and the use of the lot, to provide for disposal of water from the lot except that which should be retained for irrigation, to preserve desirable site features and to provide grades for safe and convenient access to and around buildings and the lot for their use and maintenance.

(1) The finished grading shall be designed in accordance with the chapter on Lot Improvements, details 88 through 91, of the FHA Minimum Property Standards for One and Two Living Units, and Section M 309 Grading Design of the Municipal Property Standards for Multi-Family Housing.
(2) The grading of the roadway shall be in accordance with criteria set forth in § 1117.02, and extend the full width of the right-of-way except in rolling topography. Tree lawns should be graded at a gradient of not less than two percent (2%) or more than four percent (4%) upward from the curb to the sidewalk or property line.

(b) Lot grading. The floor elevation of each building shall be established in proper relation to the surrounding grades, to the driveway and the street. There should be a minimum grade of two percent (2%) around each building so that water drains to lower areas or drainage swales which shall have minimum grade of one-half percent (0.5%). The lot drainage system shall be designed so that surface water will drain onto the driveway, a drainage structure on the lot, a street gutter and storm sewer or a natural drainage way.

The minimum grades of driveways shall be one-half percent (0.5%); the maximum shall be twelve percent (12%). Grading should be adjusted so there will be no abrupt grades in the front yards and along side lot lines. The grades of earth terraces shall not exceed a two and one-half (2½) to one (1) slope. If a masonry retaining wall exceeds three (3) feet in height, a hedge, fence or railing shall be provided on it.

(c) Topsoil and trees. The topsoil shall be stripped from the roadway and construction areas, piled separately and not removed from the site or used as spoil.

The Planning Commission may require that as many trees as can be reasonably utilized in the final development plan be retained, and the grading be adjusted to the existing grade around the trees.

('64 Code, § 1119.03) (Ord. 2043, passed 12-20-72)

§ 1119.04 DRAINAGE FACILITIES.

A drainage system shall be designed and constructed by the developer as required for the district in which the proposed subdivision is located for the proper drainage of the surface water of the subdivision and each lot as follows:

(a) Enclosed storm sewer. An enclosed storm sewer system shall be provided and connected to an existing storm sewer system, drainage ditch or other waterway as determined by the City Engineer. The system shall have a capacity to serve the subdivision and drainage area of which it is a part. The system shall include pipes, culverts, manholes, catch basins, drain inlets and a connection for each lot.

(b) Open drainage system. Subject to the approval of the Planning Commission, the developer may rechannel any watercourse through his property in order to contain the storm drain flow within a lesser width. The developer may be required to deed in fee, dedicate or grant
an easement to the city for a drainage channel not less in width than required by a plan or standards adopted by the city or as directed by the City Engineer. The developer shall be responsible for clearing the drainage way of all debris as a condition of acceptance. The City Engineer shall determine the proper cross section, grade, width of channel and horizontal alignment.

(c) Design standards. The drainage system shall be designed in accordance with standards of the City Engineer.

(64 Code, § 1119.04) (Ord. 2043, passed 12-20-72)

§ 1119.05 SANITARY FACILITIES.

Sanitary sewers shall be designed in accordance with the Master Sewer Plan of the city, and constructed by the developer of each proposed subdivision or development; a house connection shall be provided for each lot. The sanitary system shall be designed and constructed in accordance with such regulations and standards as may be established by the City Engineer.

(64 Code, § 1119.05) (Ord. 2043, passed 12-20-72)

§ 1119.06 WATER SUPPLY.

A public water system shall be designed and constructed by the developer of each subdivision or development and a supply shall be provided for each lot. The water distribution system shall be designed and constructed in accordance with the rules and standards as may be established by the City Engineer or the Division of Water and Heat of the City of Cleveland.

(64 Code, § 1119.06) (Ord. 2043, passed 12-20-72)

§ 1119.07 ELECTRIC, TELEPHONE, AND CABLE TELEVISION SERVICE.

The developer shall submit preliminary plans of proposed subdivisions to the utility companies which will service the subdivision for the preparation of a layout of their distribution system. The distribution system shall be designed to provide overhead service from easements along lot lines or to provide underground service and shall be designed and constructed, and easements shall be provided in accordance with the following standards:
(a) **Underground utility service.**

(1) In all residential subdivisions or developments all telephone, electric power, cable television and street lighting wires, conduits or cables to serve lots in such subdivision shall be constructed underground and upon easements provided for utilities, except that those wires, conduits or cables owned by or serving individual customers and located wholly on the customer's property, need not be located upon easements.

(2) All underground telephone, electric power, cable television and street lighting wires, conduits or cables and transformers shall be installed in accordance with the standards required in the *American National Standard, National Electric Safety Code*, and any amendments or replacements thereto, and other applicable regulations of the Public Utilities Commission of Ohio or any other applicable governmental agency. Transformers shall be located in underground vaults under the public walk or in an approved location in a nearby easement.

(3) The use of above ground power pedestals, tap housings, meter bases, node housings, and other similar type installations shall be limited to those instances where such use is specifically required by any applicable federal, state or local electric or building codes. When the use of such pedestals is permitted, the utility shall be required to service as many lots as is technologically feasible from a single pedestal installation. Also, when feasible, the various utility providers shall be required to share such above ground pedestals to provide their respective utility services to their mutual customers.

(b) **Overhead electric service.**

(1) Where permitted, in business and industrial areas, overhead electric and telephone service lines should be located in easements along interior lot lines, and occasionally on a side lot line, in order to keep the number of poles along streets to a minimum.

(2) In order to allow a reasonable minimum clearance from structures and adjacent trees, easements should be six (6) feet wide on each parcel, total minimum width twelve (12) feet. Easements should be continuous from block to block; in some blocks ingress only may be necessary. Street lighting wires shall be extended along side lot lines to lighting standards along the street rights-of-way.

(c) **Street lighting system.** In subdivisions served by underground electric service, bases shall be provided for the ultimate installation of street lighting standards on arterial or collector streets and at intersections, all as directed and approved by the Building Commissioner, by the electric utility serving the subdivision to provide lighting intensity meeting the minimum recommendations of American Standard Practice for Roadway Lighting. Until used, the wiring in such bases shall be safely insulated and/or de-energized.

(64 Code, § 1119.07) (Ord. 2043, passed 12-20-72; Am. Ord. 3145, passed 5-7-91; Am. Ord. 4817, passed 8-11-97.
§ 1119.08 GAS FUEL SERVICE.

The developer shall submit plans for a gas fuel distribution system for the proposed subdivision or development and a supply provided for each lot. The gas system shall be designed and constructed in accordance with the rules and standards of the East Ohio Gas Company as approved by the city. The lines shall be installed before the roadway subgrade is constructed.

('64 Code, § 1119.08) (Ord. 2043, passed 12-20-72)

§ 1119.09 PAVEMENT, CURBS, DRIVEWAYS, FOUNDATION WALLS, USE OF MASONRY, PARKING AREA AND SIDEWALK SPECIFICATIONS.

The pavement, curbs, driveways, foundation walls, use of masonry, parking area and sidewalks shall be designed and constructed by the developer as required for the district in which the subdivision is located and as set forth in the schedules in the Subdivision Regulations and in other applicable city ordinances, in accordance with the Detailed Specifications for paving in the city and Material Specifications of the Ohio Department of Transportation, whichever is applicable, such specifications shown on the drawings of the City Engineer, as approved by City Council, which are on file in the office of the Building Commissioner for reference.

(a) Pavement. Pavement requirements may be modified if found necessary by the city Engineer and if approved by the Planning Commission, because of extraordinary traffic loads or unusual soil conditions in specific locations. The developer may construct the final pavement, or the developer may request to construct a temporary pavement of slag or stone for use during the building construction period and furnish a cash bond of at least ten percent (10%) of the amounts of the performance bond or in other amounts mutually agreed to, guaranteeing that all pavements shall be maintained in a passable and reasonable condition and rebuilt as necessary to comply with the standards of the city at the completion of the construction of the buildings, and without expense to the city, until acceptance of final pavement for maintenance and use.

(b) Driveways. Driveways shall be located not less than three (3) feet from the side lot line. Driveways shall be not less than eight (8) feet and not more than twenty (20) feet wide in one-family districts.

(c) Parking areas. The design of off-street parking areas and its service driveways
shall be in accordance with the standards as set forth in Chapter 1183 of the Zoning Code.

(d) **Public sidewalks.** Sidewalks shall be provided on both sides of the street, however, the Planning Commission may waive this requirement in R-60 and R-40 Residential Districts for cul-de-sac streets serving less than fifteen (15) dwelling units or for loop streets serving less than thirty (30) dwelling units. Walks shall be extended to connect with existing walks or to the boundaries of the subdivision if walks are not accessible.

(1) **Completion time.** Public sidewalks required hereunder in any subdivision shall be constructed and completed within a two-year period from the time that construction of all other required improvements are completed. However, the developer or owner shall construct remaining sidewalks within such subdivision or any street therein in a lesser period than the two years aforementioned in order to assure safe pedestrian travel within such subdivision when determined by the Building Commission that:

A. The construction of homes within the subdivision are completed, or

B. Eighty percent (80%) of the home construction with the subdivision or any street thereof is completed.

(2) **Cash bond.** In addition to any other bond requirement guaranteeing the construction of all improvements within a proposed subdivision, a cash bond, in an amount equal to the cost of public sidewalks, as determined by the City Engineer, shall be deposited with the Building Commissioner at the time an application for a building permit for homes is presented to the Building Department. Such cash bond shall be refunded immediately after such public sidewalks have been inspected and approved by the City Engineer.

(e) **Foundation walls.** New foundation walls, or foundation walls constructed in conjunction with home additions or replacement walls, shall be of solid or hollow masonry units and shall be covered with face brick or stone above grade, except that alterations, additions and expansions to pre-existing foundation walls shall match, as closely as possible, within the discretion of the Building Commissioner, the existing above grade portion of the foundation wall. Poured concrete foundations, plain or reinforced, shall be brick or stone appearance above grade, except that alterations, additions and expansions to pre-existing foundation walls shall match, as closely as possible, within the discretion of the Building Commissioner, the existing above grade portion of the foundation wall.

(f) **Use of masonry.** Chimneys and vents passing through a roof shall extend through flashing and terminate in accordance with the manufacturer's installation requirements. All chimneys shall be designed and constructed so as to be stable and structurally conduct the gaseous products of combustion to the outer air without creating a fire hazard or a public nuisance. All chimneys shall be of masonry or Class A construction or in accordance with the
provisions contained in the National Fuel Gas Code or any amendments made thereto. All metal or other type chimneys and or flues shall be enclosed, above the roof line, or if located on the exterior of the structure, above and below the roof line with brick, stone, simulated brick or other material as may be approved by the Building Commissioner.

(Ord. 4307, passed 3-20-07; Am. Ord. 4488, passed 6-16-09)

§ 1119.10 MONUMENTS.

Monument boxes shall consist of an adjustable cast-iron monument box No. R-1968, Type “B” as manufactured by Neenah Foundry Company, or an approved equal. Monument boxes shall be set at all points in the pavement indicated on the plans. These shall be located so as to conform to the line and grades as shown on the plans and standard detailed drawings for pavements in the city.

(‘64 Code, § 1119.10) (Ord. 2043, passed 12-20-72)

§ 1119.11 STREET TREES.

(a) The selection and spacing of trees shall be in accord with a street tree plan approved by the Planning Commission. Trees should be planted along new city streets at intervals of fifty (50) feet. Tree species should be selected with such habit of growth that they will fill the space desired within a reasonable time, producing a pleasing effect in scale with adjacent developments. Miniature tree species should not be used except for special design considerations of scale, such as in a mall, and not used merely as a means of reducing pruning and a tree care program. Trees of untried species, of unknown endurance, or those requiring frequent spraying should not be used.

(b) Trees generally recommended along streets are red maple, Norway maple, sugar maple, red oak, white oak, thornless honey locust, London plane, amur cork and sweet gum. Trees which have undesirable characteristics such as excessively thick foliage, low branches, unpleasant odors, susceptibility to disease or attack by insects, or have large root systems such as poplar, willow, cottonwood, American elm, various nut and fruit trees, ailanthus, mountain ash, and Oregon maple shall not be planted in any tree lawn.

(c) A tree planting program should be prepared by qualified landscape architects for trees along the public streets and in public areas, including but not limited to: species to be used on specific streets along with regulations controlling spacing; distance from curbs, street intersections, private driveways and street lights; and minimum size and height to lower branch.
The program should be in accordance with the objectives of Policy No. 29, January 1964, of the American Society of Landscape Architects.

(‘64 Code, § 1119.11) (Ord. 2043, passed 12-20-72)

§ 1119.12 STREET NAME SIGNS.

Street name signs shall be furnished and installed by the developer. The design of the signs shall be in accord with the present signs as approved by the city. Signs shall be placed on diagonally-opposite corners, on the far right-hand of the intersection for traffic on the more important street, and as close to the corner as possible.

(‘64 Code, § 1119.12) (Ord. 2043, passed 12-20-72)

§ 1119.13 EXTRA-SIZE AND OFF-SITE IMPROVEMENTS.

The utilities, pavements and other land improvements as required shall be designed of extra size and/or extensions provided as may be necessary to serve nearby land which is an integral part of the neighborhood service or drainage area in addition to the improvements required for the development of the proposed subdivision.

(a) Extra-size improvements. The developer shall be required to pay a part of the improvements but shall not be required to pay for that part of the materials or construction of the pavements of arterial streets, trunk sewers or water mains which are determined by the City Engineer, according to standards set forth in this chapter, to be in excess of the size required for the development of the subdivision and the integral neighborhood, service or drainage area.

If a storm sewer, a sanitary sewer or a water main in excess of the size necessary to service the development is required, but each less in size than the sewer trunk lines or water mains which are to be constructed and financed on a regional basis, the city may construct the extra-size utility and require a deposit in advance from the developer for the cost of the utility he is required to install and his portion of other costs which the city may assess against the benefited property owners of the service or drainage area.

(b) Extensions to boundaries. The developer shall be required to extend the necessary improvements to the boundary of the proposed subdivision to serve adjoining unsubdivided land, as determined by the Planning Commission.

(c) Off-site extensions. If streets or utilities are not available at the boundary of a proposed subdivision, and if the Commission finds the extensions across undeveloped areas
would not be warranted as a special assessment to the intervening properties or as a municipal expense until some future time, the developer may be required, prior to approval of the final plat, to obtain necessary easements or right-of-way and construct and pay for such extensions. Such improvements shall be available for connections by developers of adjoining land.

(d) Prorating costs. In making determinations for prorating costs for the construction of off-site extensions or extra-size improvements, the Commission and Council shall consider, in addition to the standards set forth in this chapter and other regulations of the city, the following conditions:

1. The relative location and size of the proposed subdivision;
2. The traffic estimated to be generated by the development in relation to present streets;
3. The natural drainage area for sewers and the service area for water;
4. The development benefits that will accrue to the subdivision;
5. The sequence of land and utility developments in the vicinity; and
6. Any other condition it finds pertinent.

('64 Code, § 1119.13) (Ord. 2043, passed 12-20-72)

§ 1119.14 DESIGN STANDARDS.

(a) The design of the water system, storm and sanitary sewerage systems and roadways, the grading of the subdivision and each lot shall be in accord with the various aforesaid standards and requirements. Drawings and specifications for the improvements shall be reviewed and approved by the City Engineer and the installation shall be subject to his continuous inspection.

(b) At the completion of the construction, and before acceptance, the developer shall furnish the city a set of records or as built tracings showing the locations, sizes and elevations of all underground utilities.

('64 Code, § 1119.14) (Ord. 2043, passed 12-20-72)

§ 1119.15 PERFORMANCE GUARANTEE IN LIEU OF INSTALLATION.
The developer may execute and file with the city financial guarantees, in lieu of actual installation or completion of the required improvements, concurrently with the application for approval of the final plat.

(a) **Type of guarantees.** Such guarantees may be in the form of a performance or surety bond, a certified check or any other type of surety approved by the city. The terms of such guarantees shall be determined by the Planning Commission, however, they shall not be for a longer period than two (2) years unless Council, by resolution, extends the time. Bonds shall be executed by the applicant as principal with a surety company authorized in the state and shall be in a form substantially as shown in Appendix iii of these Subdivision Regulations.

(b) **Amount of guarantee.** The financial guarantees shall be in an amount equal to the estimated total cost of materials and labor required to install or construct the improvements. Such costs shall be determined by the City Engineer. When any portion of an improvement has, upon inspection, been found satisfactorily completed, a reduction in the bonds or partial withdrawal of funds equal to the estimated costs of such completed improvements may be authorized.

(c) **Progressive installation.** The developer may apply for final approval and recording of only a portion of the entire subdivision. Under such a progressive unit development procedure, the installation of required improvements and sale or lease of lots may proceed only on that portion of the subdivision which has been approved and recorded.

('64 Code, § 1119.15) (Ord. 2043, passed 12-20-72)

**§ 1119.16 PUBLIC IMPROVEMENT MAINTENANCE FUND.**

The developer shall guarantee the construction and materials of the street and other public improvements for a twenty-four (24) month period after acceptance by the city, and in order to secure the guarantee, he shall deposit cash or other surety in an amount equal to twenty-five percent (25%) of the total cost of the construction of street improvements in a maintenance fund and provide the city certificates or other evidence that such fund is maintained.

('64 Code, § 1119.16) (Ord. 2904, passed 8-4-87)

**§ 1119.17 INSURANCE.**

The developer agrees to indemnify and save harmless the city against and from any and
all loss, cost, damage, liability and expense on account of damage to property of the city, or
injury to or death of the city’s employees, agents or representatives or any third person, caused
by, growing out of or in any way whatsoever attributable to the construction of such public
improvements and the use of the streets delineated on the subdivision plat during construction.
The developer further agrees, but without limiting its liability to indemnify the city, to carry
liability insurance contracts with any insurance company or companies licensed to do business in
the state acceptable to the Building Commissioner during the period of such construction in the
sum of $250,000 for injury to or death of any persons with a minimum aggregate limit of
$1,000,000, and in the sum of $300,000 for damage to or destruction of property, which
insurance contracts to include the city as a named insured. The developer agrees to maintain on
file with the city during the period of such construction, certificates or memoranda of insurance
evidencing that such insurance contracts are in force.

(‘64 Code, § 1119.17)  (Ord. 2905, passed 8-4-87)

§ 1119.18  FAILURE TO COMPLETE IMPROVEMENTS.

In the event the developer fails to diligently pursue the work or complete the installation
of all improvements to the land according to the terms and conditions of these Subdivision
Regulations, the drawings and specifications, approved by Council, the performance bonds filed
by him and/or other agreements or covenants made by him, the city may upon ten (10) days
written notice to the developer complete the same in the manner required, and pay for the costs
thereof from the deposits made by the developer.

(‘64 Code, § 1119.18)  (Ord. 2043, passed 12-20-72)

§ 1119.19  BUILDING CONSTRUCTION AND OCCUPANCY.

A building permit may be issued and construction started after the completion of the
underground utilities. If a temporary pavement is constructed a temporary certificate of
occupancy which includes a statement that the city is not liable for maintenance of such
improvements, may be issued, provided the developer furnishes a cash bond in an amount
required by the city guaranteeing that all streets shall be maintained in a passable and reasonable
condition until such time as the final pavement is completed and accepted for use and
maintenance as set forth in § 1119.09(a).

(‘64 Code, § 1119.19)  (Ord. 2043, passed 12-20-72)
CHAPTER 1121: PLANS AND PLATS

Section

1121.01 Intent
1121.02 Sketch plan - minor subdivision
1121.03 Preliminary plan - major subdivision
1121.04 Final plat - major subdivision
1121.05 Development on irregular or severe topography

Cross-reference:

Definitions for plans, plats and maps, see § 1113.15

Definitions of subdivisions, see § 1113.22

Fees for subdivisions and development plan approvals, see § 1101.02

Lot definitions, measurements, see § 1113.14

Statutory reference:

Plats, state law, see R.C. Chapter 711

§ 1121.01 INTENT.

Plans, maps, data and plats shall be prepared and furnished by the developer as required in this chapter to assure accurate surveying, to provide adequate information for designing, preparing plans, reviewing and recording subdivisions.

('64 Code, § 1121.01) (Ord. 2043, passed 12-20-72)

§ 1121.02 SKETCH PLAN - MINOR SUBDIVISION.

The developer shall furnish with the application for approval of a sketch plan for a minor subdivision, or as a pre-application for a major subdivision, pursuant to § 1115.03, either separate or combined, the following:
(a) *Maps and data.*

(1) *Location.* A drawing or print of a city map, or a part thereof, showing the location of the proposed subdivision.

(2) *Property.* A drawing or print showing by scale and dimensions the parcel which is to be subdivided and all contiguous land of the same ownership, including locations of existing structures within 100 feet of the boundaries.

(3) *Topography.* A section of the topography and drainage map of Cuyahoga County, 200-foot scale, two-foot contours, of the proposed subdivision and within 100 feet thereof.

(4) *Utilities.* Information on the accessibility of required utilities.

(5) *Name.* The name of the owner and of adjoining property owners, including designations of the parcel according to official records.

(b) *Sketch plan.* The sketch plan shall be clearly drawn on transparent paper or cloth at a scale of not less than 100 feet to the inch, showing the proposed layout and dimensions of each lot.

(64 Code, § 1121.02) (Ord. 2043, passed 12-20-72)

§ 1121.03 PRELIMINARY PLAN - MAJOR SUBDIVISION.

The developer shall furnish, with the application for approval of a preliminary plan of a major subdivision, pursuant to § 1115.05, the following maps, data and plans:

(a) *Maps and data.* Maps and data shall, unless submitted in connection with a sketch plan, include the following, either separate or combined:

(1) *Vicinity map.* A print of a section of the 800-foot scale map of the city, showing the proposed subdivision and relationship to adjacent developments, streets and all community facilities which serve or influence it.

(2) *Property line map.* A property line map showing bearings and distances of the parcel to be subdivided, location, width and purpose of easements, the name, width and location of abutting streets including location of pavements and sidewalks and structures on parcels within 100 feet on adjoining property.

(3) *Utility map.* A utility map showing utilities on and adjacent to the tract, including location, size and invert elevations of all sewers, location and size of water and gas
mains, location of fire hydrants and electric power and telephone poles.

(4) Topographic map. A section of the Cuyahoga County Topographic Map, 200-foot scale, contours at two-foot intervals based on the county datum plane.

(5) Titles and certifications. Titles and certifications indicating present parcel designations according to official records, the name of the developer, the name and address of owners, a certification of a registered surveyor, the scale and the date of survey.

(b) Preliminary plan. The subdivision shall be planned in accord with the planning criteria set forth in Chapter 1117 of these Subdivision Regulations and designed by either a professional planner, a registered landscape architect or a registered civil engineer. The plan shall be accurately and clearly drawn at a scale of not less than 100 feet to one inch. It may be drawn in pencil on transparent tracing paper. The drawing shall include the aforesaid topographic and property line data, the surrounding streets and lots and the proposed plan, or alternate plans of the subdivision, including the following:

(1) Streets. The layout, right-of-way and pavement widths, approximate grades and names of streets;

(2) Other rights-of-way. The location, width and purpose of other rights-of-way;

(3) Lot lines. The approximate dimensions and number of lot lines;

(4) Public use sites. The sites to be reserved or dedicated for parks, playgrounds or other public uses;

(5) Other use sites. The sites for multi-family, institutions, business or industrial uses;

(6) Building lines. Building lines if uniform or if a group development;

(7) Title. Title, graphic scale, north arrow and date.

(c) Protective covenants. An outline of the protective covenants proposed to regulate and protect the development, restrictions and by-laws of a homes association and its incorporation, declaration of condominium ownership and any other covenants, if any.

(d) Other preliminary plans. The Planning Commission may require additional preliminary drawings showing information such as street profiles and grades, a typical cross section of the proposed roadway, proposed sanitary and storm sewers and water service, or the prospective street system of adjacent land owned by the developer.

(e) Ownership certificate. The Commission may require a certificate as to ownership
and that the proposed subdivision is satisfactory to the owner.

(‘64 Code, § 1121.03) (Ord. 2043, passed 12-20-72)

§ 1121.04 FINAL PLAT - MAJOR SUBDIVISION.

The developer shall furnish, with the application for approval of the final plat of a subdivision, pursuant to § 1115.06, the following plans, data and plats:

(a) **Final plat.** The final plat shall be drawn and signed in India ink on tracing cloth at a scale not less than 50 feet to one inch.

Sheets shall not be less than 24 inches x 36 inches, or larger than 36 inches x 48 inches in size, if necessary the plat shall consist of several sheets including an index and references to adjoining sheets. The plat shall include only the portion of the subdivision proposed for immediate recording and development and show the following:

(1) **Control points.** The control points to which all dimensions, angles and bearings are to be referred; the nearest street or section line or other established point.

(2) **Lines and boundaries.** Lines and boundaries such as center lines and right-of-way lines of streets, easements and other rights-of-way; natural and artificial watercourses, streams and shorelines; corporation lines; and property lines of all lots and parcels with distances, radii, arcs, chords and tangents of all curves, nearest one hundredth of a foot; bearings or deflection angles, nearest second.

(3) **Street.** The name and width of each street within the proposed subdivision and those adjoining; the building setback line.

(4) **Lot and block identification.** The number or letter, in progressive order, for each lot and block conforming with the Recorder's procedures.

(5) **Dedication and acceptance.** The boundaries of and purpose for which any parcels, other than residential lots, the area to be dedicated or reserved for public use; the purpose of easements.

(6) **Monuments.** The location and description of those monuments found, set or to be set.

(7) **Names.** The names of recorded owners of adjoining unplatted land.

(8) **Reference.** Reference to subdivision plats of adjoining platted land by name, volume and page of the Recorder's maps.
(9) Certification. Certification by the owner of the acceptance of the plat and a statement offering dedication of streets, rights-of-way, and any sites for public use or reserved by deed covenants for common use of all property owners.

(10) Survey and plat certification. Certification and seal by a registered surveyor or engineer as to preparation and details of the survey and plat.

(11) Protective covenants. Reference to protective covenants, or included on the plat.

(12) Title. Titles of the subdivision, municipality, county, state, original township section, tractor lot; scale (shown graphically), north arrow, date.

(13) Approval statement. An approval statement for the Planning Commission and city officials and/or County officials, as may be required.

(14) Forms. The above, title, certificates, statements, and the like, shall be in accord with the forms set forth in the Appendix of these Subdivision Regulations.

(b) Drawings and specifications. Drawings and specifications showing cross sections, profiles, elevations, construction details and specifications for all required improvements. The drawings and specifications shall be in accordance with the requirements of Chapter 1119.

(c) Certification by City Engineer. Certification by the City Engineer stating that the developer has:

(1) Installed all required improvements in accordance with the provisions of these Subdivision Regulations and any conditions set forth by the Planning Commission in its approval of the preliminary plan; or

(2) Posted financial guarantees in sufficient amount to assure completion of all required improvements.

(3) Complied, where applicable, with the provisions of Chapter 915 relating to a Trees Savings Plan.

(d) Protective covenants. Protective covenants, restrictions, by-laws, declarations and any other covenants in final form, to be recorded separately.

(e) Other statements and data.

(1) A statement that there are no unpaid taxes or special assessments against the tract and that the developer owns the property.

(2) Other data, certificates or affidavits as may be required by the Planning
§ 1121.05 DEVELOPMENT ON IRREGULAR OR SEVERE TOPOGRAPHY.

On any existing lot or sublot, or in any proposed subdivision of land where, in the opinion of the City Engineer, development is proposed on irregular or severe topography, the developer shall comply with the following regulations:

(a) Those lots or sublots of any proposed subdivision, or any existing lots or sublots that have been identified by the City Engineer as having irregular or severe topography or poor soil conditions shall be marked on the preliminary and final plats for proposed subdivisions and upon the city's existing plat maps for existing lots or sublots, by an appropriate symbol or other designation as approved by the City Engineer, as requiring any improvement plans to be reviewed and approved by a structural engineer and a geotechnical or other qualified expert retained by the owner and/or developer. The report of these experts shall indicate that such proposed development will not pose an unreasonable risk to the potential occupants of any buildings located on such land or present a hazard or risk to adjacent developments. The owner and/or developer of such lot shall comply with all recommendations of these experts in the development of the land in question.

(b) At the time any footers have been installed for any structure proposed for such lot or sublot, the expert(s) retained by the developer or builder shall confirm in writing that any and all conditions set forth in the approved plans as required in Subsection (a) above have been met and these footers have been installed in accordance with such plan. Additional inspections to determine compliance with the report and recommendation of the experts retained by the owner or developer shall occur when the structure is completed, at the time final grade is to be established and at such other times as the Building Commissioner or City Engineer deems appropriate. The Building Commissioner shall not issue any form of occupancy permit unless and until all requirements of the experts have been met.

(c) The surety bond, as required by § 1311.011 of the Codified Ordinances of the City of Brecksville, shall be available to the city in the event the owner and/or developer fails to comply with any requirements of this section or the recommendations of any experts retained in compliance with this section.

(Ord. 3547, passed 12-17-96; Am. Ord. 3557, passed 2-18-97)
CHAPTER 1123: ADOPTION; APPEALS; ENFORCEMENT

Section

1123.01 Intent
1123.02 Plans for unplatted areas
1123.03 Schedule of fees
1123.04 Enforcement
1123.05 Adoption
1123.06 Effective date

Cross-reference:

Fees for appeals, see § 1101.01
Fees for subdivision and development plan approval, see § 1101.02
Plans and plats, see Ch. 1121

§ 1123.01 INTENT.

(a) Procedures are hereby established for adopting these Subdivision Regulations by Council after public hearing, and administering it thereafter by the Planning Commission; and

(b) To relate these regulations to other codes of the city and to provide for their interpretation;

(c) To provide for appeals for refusal of approval of a plan; and

(d) To provide procedures for the enforcement of these regulations, the construction of improvements and recording of plats, all consistent with state laws and the rules and the Charter of the city.

(‘64 Code, § 1123.01) (Ord. 2043, passed 12-20-72)

§ 1123.02 PLANS FOR UNPLATTED AREAS.

(a) The Planning Commission is empowered by authority of R.C. Chapters 711 and
735 or such statutes hereinafter in effect, to prepare plans of unsubdivided or improperly subdivided or platted areas showing a system of future streets and public open spaces, and show as “mapped street” those rights-of-way to be reserved.

(b) The Commission shall hold a public hearing thereon. Notice of the time, place and purpose of such hearing shall be given by written notice mailed not less than fifteen (15) days prior to the date of such hearing, to the owners of all property within, contiguous to and directly across the street from the area being planned. The address of such owners shall be obtained from current records of the County Auditor and city records.

(c) After the hearing, such “mapped street” or “mapped public land” plans, may be adopted by the Commission and recorded, and thereafter no subdivision may be approved and no street may be accepted or improved unless it conforms substantially to such recorded plan, and no application for a permit to construct a building on land shown within the right-of-way of a future street shall be issued until the city has started procedures to acquire such land for street purposes, but such permit may not be withheld for a period exceeding one hundred twenty (120) days.

(64 Code, § 1123.02) (Ord. 2043, passed 12-20-72)

§ 1123.03 SCHEDULE OF FEES.

In making applications for approval of a preliminary plan or a final plat of a subdivision, the developer shall:

(a) **Certified check.** Deposit a certified check payable to the city in the amount as established by the schedule of fees, by ordinance, along with the preliminary plan, to be credited to the General Fund for the exclusive use of defraying any expenses incurred by the city in reviewing the plan.

(b) **Engineering inspection, construction inspection and legal expenses.** The fee for engineering inspection, construction inspection and for legal fees shall not be less than the expenses incurred by the city, and the developer shall deposit not less than five percent (5%) of the estimated cost of the improvements, or such additional amount as reasonably determined necessary by the Building Commissioner, in a specific fund for such purpose.

(64 Code, § 1123.03) (Ord. 2043, passed 12-20-72; Am. Ord. 2906, passed 8-4-87; Am. Ord. 3853, passed 12-19-00)
§ 1123.04 ENFORCEMENT.

Compliance with these Subdivision Regulations shall be obtained by applying penalties for noncompliance as follows:

(a) Violations of rules and regulations; penalty. Whoever violates any provision of these Subdivision Regulations as duly adopted or fails to comply with any order issued pursuant thereto, shall forfeit and pay not less than $10 nor more than $1,000 and each violation shall be considered a separate offense.

(b) Improvements to be installed. The utilities and other improvements required by these Subdivision Regulations and deemed necessary in the public interest to provide essential services and access to a lot shall have been installed or their installation guaranteed, in conformance with the provisions of these regulations before the issuance of a building permit for construction upon such lot and before the recording, sale or lease of the lot.

(c) Transfer of land before recording. Whoever, being the owner or agent of the owner of any land located within the jurisdiction of these Subdivision Regulations, transfers any lot, parcel or tract of such land or in accordance with any plat of a subdivision before such plat has been recorded, shall forfeit and pay not less than $100 nor more than $500 for each lot, parcel or tract of land sold. The description of such lot, parcel or tract by metes and bounds in the deed of transfer shall not serve to exempt the seller from the forfeit herein provided. The city may enjoin such sale or agreement by a civil action in any court of competent jurisdiction. The sale of lots, parcels or tracts from a plat of a subdivision on which any and all areas indicated as streets or as open ground are expressly indicated as for the exclusive use of the abutting or other owners in such subdivision and not as public streets, ways or grounds shall not serve to exempt the seller from the requirements of these regulations or from the forfeiture herein provided.

(64 Code, § 1123.04) (Ord. 2043, passed 12-20-72)

§ 1123.05 ADOPTION.

(a) The adoption of and amendments to these Subdivision Regulations may be initiated by the Planning Commission or Council. If initiated by Council they shall be referred to the Commission, and, after receiving recommendations thereon, the Commission shall hold a public hearing in accordance with the provisions set forth in § 1199.03 of the Zoning Code. If the amendment is approved by the Commission, Council may adopt the amendment by a
majority vote, or, if such amendment is not approved by the Commission, it may be adopted only by an affirmative vote of five members of Council.

(b) After adoption or amendment to these Subdivision Regulations a copy thereof shall be certified by the Commission or Council to the Cuyahoga County Recorder.

('64 Code, § 1123.06) (Ord. 2043, passed 12-20-72; Am. Ord. 3741, passed 7-20-99)

§ 1123.06 EFFECTIVE DATE.

These Subdivision Regulations shall be effective upon passage and publication, and upon adoption by Council. They shall take effect and be in force at the earliest date permitted by the City Charter.

('64 Code, § 1123.07) (Ord. 2043, passed 12-20-72; Am. Ord. 3741, passed 7-20-99)

APPENDIX i: OUTLINE OF PROCEDURES

The procedures outlined in this section are intended only as a guide and do not modify the detailed procedures set forth in Chapter 1115 and other parts of these regulations:

1. Land Planning and Subdivision Regulations are prepared by the Planning Commission, and after holding a public hearing are recommended to Council, and are reviewed and are adopted by Council.

2. Thereafter, subdivisions are reviewed and approved by the Planning Commission in accordance with the adopted regulations and any amendments thereto.

3. The developer, before subdividing, obtains information on, or a copy of, the regulations, and other applicable codes in effect.

4. For a minor subdivision, the developer prepares a sketch plan and submits it to the Commission. After review, the Commission may give final approval and the subdivision may be recorded and the lots created may be sold.

5. For a major subdivision, the developer prepares a Preliminary Plan in accordance with the Planning Criteria, Chapter 1117, submits it to the Commission and applies for approval. After review, the Commission shall recommend, conditionally recommend, or not recommend, the Preliminary Plan to the Council.
6. The Council shall approve or disapprove the Commission's recommendations within 60 days.

7. The developer, having received approval of a Preliminary Plan of a major subdivision, prepares drawings and specifications for the improvements in accordance with the provisions of Chapter 1119, and a Final Plat of the subdivision in accordance with the provisions of Chapter 1121. He may either:

   a. Apply for approval of drawings and specifications of improvements, and after approval construct the improvements and then apply for approval of final plat for recording, or,

   b. Apply for approval of plans and specifications of improvements and of final plat concurrently and furnish performance guarantees for the subsequent construction of the improvements.

8. The Commission may approve the drawings and specifications for improvements however, it may approve the final plat only after the improvements are installed or performance guarantees furnished.

9. After approval, the final plat of the subdivision may be recorded by the developer and he may sell the lots.

10. The developer shall offer for dedication the streets or other public areas and the Council may accept same.

11. The acceptance of streets and utilities for use and maintenance shall be by separate action of the Council.

(64 Code, Appendix i)

APPENDIX ii: FORMS FOR FINAL PLAT CERTIFICATIONS

Form 1 TITLE

__________________________________________ Subdivision

            (name of)

Part of original tract ______________________________

            (municipality)
Form 2  CERTIFICATE OF OWNERSHIP AND DEDICATION

I (we) the undersigned          (name lettered)  owner(s) of the property shown and described hereon as the subdivision do hereby assent to and adopt this subdivision of the same, and acknowledge that the same was made at our request and do hereby dedicate to public use the street(s) (easements) (parks or other public areas) designated in graphic symbols on this plat.

(Witness)

(owner)  (signature)

(lettered)

(owner)  (signature)

(lettered)

('64 Code, Appendix ii, Form 2)

Form 3 ACKNOWLEDGMENT BY INDIVIDUAL (directly below the above certificate)

State of Ohio  )

County of Cuyahoga  )

Before me, a Notary Public in and for said County and State, personally appeared the above who acknowledged that he, (she, or they) did sign the foregoing instrument and that the same is his (her or their) free act and deed.

IN WITNESS whereof, I have hereunto set my hand and official seal at (city), _______ (state) this ______ day of _____ (month), ____ (year).

__________________________

Notary Public
Brecksville, Ohio Code of Ordinances

My Commission expires ________________

('64 Code, Appendix ii, Form 3)

Form 3A ACKNOWLEDGMENT BY CORPORATION

State of Ohio )

County of Cuyahoga )

Before me, a Notary Public, in and for said County and State, personally appeared
, president and____________________, secretary, of ____________________ the corporation
which executed the foregoing instrument, who acknowledged that they did sign said instrument
as such president and secretary in behalf of said corporation and by authority of its board of
Directors; and that said instrument is their free act and deed individually and as such officers and
the free and corporate act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at
, Ohio this ______ day of ______ 19__.

________________________________________
Notary Public

My Commission expires______________________

('64 Code, Appendix ii, Form 3A)

Form 4 CERTIFICATE OF SURVEYOR

I hereby certify that I have prepared this survey and plat of
subdivision and that the same is correct and accurate.

________________, 19__________________________

Registered Surveyor-Ohio Serial No.

('64 Code, Appendix ii, Form 4)

Form 5 APPROVAL BY PLANNING COMMISSION

This plat of ____________ subdivision has been approved by the Planning Commission
of the City of ____________, Ohio, by resolution adopted

__________________________.

______________, 19______________________________
Chairman

Secretary

('64 Code, Appendix ii, Form 5)

Form 6 CERTIFICATE OF THE APPROVAL OF REQUIRED IMPROVEMENTS

I hereby certify that the pavements, utilities and other required improvements for the subdivision herein approved have been designed in accordance with the regulations and standards in effect that I have estimated the cost of materials and construction and performance guarantees in the amount of $_____, have been posted with the ________________to assure completion of all improvements in case of default.

___________________, 19___

date

______________________________

City Engineer

('64 Code, Appendix ii, Form 6)

Form 6A CERTIFICATE OF THE APPROVAL OF REQUIRED IMPROVEMENTS

(not included on plat)

I hereby certify that pavements, utilities and other required land improvements for the subdivision approved by the Planning Commission on ______ have been designed in accordance with the regulations and standards in effect, that I have inspected the installation of the same and find all improvements have been installed in accordance with the drawing and specifications therefor, and that the utilities and pavements are in good repair.

___________________, 19___

date

______________________________

City Engineer

('64 Code, Appendix ii, Form 6A)

Form 7 ACCEPTANCE OF PUBLIC LANDS BY COUNCIL
Brecksville, Ohio Code of Ordinances

The public street(s) (park) (playground) (easements) or (other public areas) as noted hereon in graphic symbols were accepted for dedication by the Council of the City of , Ohio by Ordinance No. ____________.

______________, 19__

__________________________
President of Council

__________________________
Clerk of Council

('64 Code, Appendix ii, Form 7)

Form 8 ACCEPTANCE OF STREET AND UTILITIES FOR PUBLIC USE

(Separate ordinance - not included on plat)

The public street(s) accepted heretofore for dedication and the public utilities has (have) been found to be constructed in accordance with the drawing, specifications, and design standards in effect and in good repair, is (are) hereby accepted for public use and maintenance by the Council of the City of,
______________, Ohio by Ordinance No. ______.

______________, 19__

__________________________
President of Council

__________________________
Clerk of Council

('64 Code, Appendix ii, Form 8)

Form 9 COUNTY RECORDS

Transferred this __________ day of ______, 19__.

__________________________
Cuyahoga County Auditor

Recorded in Plat Book ____, Page No. ____ this __________ day of ________, 19__.
APPENDIX iii: FORMS FOR PERFORMANCE BONDS

_________________________, Ohio

(City)

PERFORMANCE

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, _____________________________, Principal herein is the owner and developer of the _____________________________ Subdivision located in Cuyahoga County, Ohio, and

WHEREAS, the drawings and specifications of said subdivision showing the location, construction and installation requirements for street pavements, curbs, sidewalks, sewers, water mains and other land improvements therein have been filed with the City Planning Commission and by it approved, which drawings and specifications are hereby incorporated herein by reference as if set forth at length and made a part of this instrument, and

WHEREAS, the Principal has obligated himself (or itself) and does hereby agree to complete the construction and installation of all street pavements, curbs, sidewalks, sewers, water mains and all other land improvements in the said Subdivision in accordance with the said drawings and specifications now on file,

NOW, THEREFORE, THE _____________________________ as Principal and as Surety, do hereby firmly bind ourselves, our heirs, executors, administrators and successors unto the City of _____________________________, Ohio, in the sum of $___________ conditioned upon the performance by the Principal of his (or its) undertaking herein, and his (or its) completion of the construction of all the street pavements, curbs, sidewalks, sewers, water mains and all other land improvements to be located within said Subdivision as required in accordance with the drawings and specifications therefore, all of which are to be completed on or before the ____________ day of ____________ 19______, and upon the completion thereof and their approval by the engineer of the City of ______________, this obligation to be null and void, otherwise to remain in full force and effect:
WHEREAS, the Developer ___________________________ heretofore on the day of _____, 19___, applied to the Planning Commission of _______________ ____, Ohio for the approval of a preliminary plan of a subdivision located in and submitted in support thereof maps, plans and other data, all as required by the Land Planning and Subdivision Regulations, adopted by the Council, Ordinance Number ________, date; and

WHEREAS, the Planning Commission reviewed said maps, plans and other data for said subdivision and found that the same complied with said Ordinance Number __________, thereafter on the ________ day of ______, 19____, the Commission approved said preliminary plan, (on condition that:

_________________________ (State conditions)

). (If conditional approval)

WHEREAS, the Developer has now complied with each of the conditions of approval as established by the Planning Commission; and

WHEREAS, the Developer has filed on the ________ day of __________ 19___, a final
Brecksville, Ohio Code of Ordinances

---

plat designated ________________ and drawings, specifications and other information for the improvements of the land within said plat as required by the Land Planning and Subdivision Regulations and has requested the approval thereof; and

WHEREAS, the City Engineer has reviewed and approved said final plat and the drawings, specifications and other information relating to the improvements of the land within said plat, each of which are designated as follows:

<table>
<thead>
<tr>
<th>Final Plat</th>
<th>Prepared By</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Drawings</th>
<th>Prepared By</th>
<th>Number and Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Specifications</th>
<th>Prepared By</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If improvements not installed)

WHEREAS, the City Engineer has reported to this Council that his estimate of the cost of the completion of the improvements described in said drawings and specifications is $; and

WHEREAS, the Developer has filed with the Building Commissioner:

1. Performance Guarantees as described in the Land Planning and Subdivision Regulations in the amount of $_______;

2. Liability insurance in the amount required by the Land Planning and Subdivision Regulations;

3. The sum of $_______ as a deposit for the pavement maintenance fund; and

4. The sum of $_______ as a deposit to underwrite the cost of the inspection by the officer or employees of the municipality of the construction and the proposed improvements;

all of which amounts are in accordance with the estimates reported to this Council by the City Engineer and required by the Land Planning and Subdivision Regulations; and

"American Legal Publishing Corporation" 73
WHEREAS, the City Engineer has reported that (List of improvements installed) shown on said final plat and described in said drawings and specifications have been satisfactorily completed, and has further reported that his estimate of the cost of the remaining improvements to be installed is $_______; and

(If improvements partially installed)

WHEREAS, the Developer has filed with the Building Commissioner:

1. Performance Guarantees as described in the Land Planning and Subdivision Regulations in the amount of $______;

2. Liability insurance in the amount required by the Land Planning and Subdivision Regulations;

3. The sum of $______ as a deposit for the pavement maintenance fund; and

4. The sum of $______ as a deposit to underwrite the cost of the inspection by the officer or employees of the municipality of the construction and the proposed improvements;

all of which amounts are in accordance with the estimates reported to this Council by the City Engineer and required by the Land Planning and Subdivision Regulations; and

(If improvements are completely installed)

WHEREAS, the City Engineer has reported that all of the improvements to the land as shown on said final plat and described in said drawings and specifications have been satisfactorily completed and the Developer has filed with the Building Commissioner the sum of $_______ as a deposit for the pavement maintenance fund, which amount has been estimated by the City Engineer as required; and

WHEREAS, the Developer by said final plat has offered for dedication for public use certain land for streets, alleys, public grounds and easements, all as shown and described on said final plat;

BE IT RESOLVED by the Council of the City of _________________, Ohio, that:

1. The Council of the City of _________________, Ohio, does hereby accepts and approves the above described final plat, drawings and specifications;
2. The Council of the City of ________________, Ohio, does hereby authorize the Developer to proceed with the Construction of the improvements to the extent not herein installed in accordance with all the documents by this resolution approved, provided that such work shall be started not less than ___________ days from the effective date of this resolution and be completed not later than the ___________ day of __________, 19___.

3. The final plat of said subdivision be and the same is hereby approved and accepted and that the dedication to the public use of the streets, alleys, public grounds and easements, all as shown thereon, be and the same is hereby accepted and confirmed.

4. The Building Commissioner be and is hereby authorized to cause said final plat to be recorded with the Recorder of Cuyahoga County as provided by law upon the receipt by the Building Commissioner from the Developer of the fees to be paid to effect said recording and upon the delivery to the Building Commissioner of a statement of title guarantee in an amount of $_________ issued by a title company approved by the Building Commissioner showing title to the streets, alleys, public grounds and easements shown on said final plat to be good in the of ________________, free and clear of all encumbrances whatsoever as of the date and hour of the filing of said final plat for record.

(Usual enacting clauses)

('64 Code, Appendix iv)
§ 1131.01 TITLE.

This Code is the Zoning Code for the City of Brecksville as enacted by Ordinance 2042, passed December 20, 1972, and is codified as Titles Five through Eleven of Part Eleven - Planning and Zoning Code.

(64 Code, § 1131.01) (Ord. 2042, passed 12-20-72)

§ 1131.02 PURPOSE AND INTENT.

(a) The purpose of this Zoning Code and the intent of the legislative authority in its adoption is to promote and protect the public health, safety, convenience, comfort, prosperity and the general welfare of the city; by regulating the use of buildings, other structures and land for residences, public facilities, institutions, business, services, industry or other purposes; by regulating and restricting the bulk, height, design, percent of lot occupancy and location of buildings; by regulating and limiting population density; and, for the aforesaid purposes, to divide the land within the corporate limits of the city into districts of such number and dimensions in accordance with the objectives of the Master Plan; and to provide procedures for the administration and amendment of it.

(b) This Zoning Code is intended to achieve, among others, the following objectives:

(1) To protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses; and to insure their orderly and beneficial development;

(2) To provide adequate open spaces for light, air and outdoor uses;
(3) To prevent overcrowding of the land;

(4) To regulate and control the location and spacing of buildings on the lot and in relation to the surrounding property so as to carry out the objectives of the comprehensive Master Plan;

(5) To regulate the location of buildings and intensity of uses in relation to streets so as to minimize interference by traffic movements, and to reduce street congestion and improve public safety;

(6) To establish zoning patterns that insure economical extensions for sewers, water supply, waste disposal and other public utilities, as well as developments for recreation, schools and other public facilities;

(7) To guide the future development of the city so as to bring about the gradual conformity of land and building used in accordance with objectives of Master Plan; and

(8) To accomplish the specific intents and goals set forth in the introduction to the respective chapters.

('64 Code, § 1131.02) (Ord. 2042, passed 12-20-72)

§ 1131.03 RELATION TO OTHER LAWS AND COVENANTS.

(a) The provisions of this Zoning Code shall supplement any and all laws of the state, ordinances of this municipality or any and all rules and regulations promulgated by authority of such law or ordinance relating to the purpose and scope of such Zoning Code.

(b) The provisions of this code shall not annul or in any way interfere with existing deed or plat restrictions or covenants, easements or other agreements between persons, codes, laws, regulations or permits previously adopted or issued except those ordinances or sections thereof which are contrary to and in conflict with this code.

(c) Wherever this code imposes greater restrictions upon the use of buildings or land, the height or bulk of buildings, or requires larger land or building areas, yards or other open spaces than are otherwise required or imposed by other deed or plat restrictions or covenants, codes, laws, ordinances, rules or regulations, this Zoning Code shall control; and conversely, other regulations shall control where they impose greater restrictions than this code.

('64 Code, § 1131.03) (Ord. 2042, passed 12-20-72)
§ 1131.04 INTERPRETATION.

In interpreting and applying the provisions of this Zoning Code, such provisions shall be held to be the minimum requirements for the promotion of public health, safety, convenience, comfort, prosperity and general welfare and the objectives set forth throughout the code. Except as specifically provided herein, it is not intended by this Zoning Code to repeal, abrogate or annul any existing provision of any law or ordinance or any rule or regulation previously adopted or issued pursuant to law relating to the use of structures and land and the design, erection, alteration or maintenance of structures thereon.

('64 Code, § 1131.04) (Ord. 2042, passed 12-20-72)

§ 1131.05 SEVERABILITY.

Each section of this Zoning Code and each part of such section are declared to be independent sections and parts of sections, and notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of such sections, or the application thereof to any person or circumstance, is held invalid for any reason, the remaining sections or parts of sections and the application of such provision to any person or circumstance other than as to those to which it is held invalid, shall not be affected thereby, and it is hereby declared that this Zoning Code would have been passed independently of the section, sections or parts of a section held to be invalid.

('64 Code, § 1131.05) (Ord. 2042, passed 12-20-72)

CHAPTER 1133: DEFINITIONS

Section

1133.01 Rules for interpretation

§ 1133.01 RULES FOR INTERPRETATION.

Words in this Zoning Code are normally used in their ordinary English usage. Certain
terms are, however, defined in Chapter 1113, Definitions, of the Subdivision Regulations and wherever used in this Zoning Code, they shall have the meaning as set forth in Chapter 1113, except where the context clearly indicates a different meaning. The contents of Chapter 1113 are summarized as follows:

1113.01 Rules for interpretation
1113.02 General terms
1113.03 Areas, buildings and land
1113.04 Automotive uses
1113.05 Block
1113.06 Buildings and structures
1113.07 Family
1113.08 Dwellings and other living accommodations
1113.09 Grades
1113.10 Height of building
1113.11 Home offices
1113.12 Junk or wrecking yard
1113.13 Loading space
1113.14 Lot, parcel, land
(‘64 Code, § 1133.01) (Ord. 2042, passed 12-20-72)

1113.15 Maps, plans, plats
1113.16 Motor freight station
1113.17 Nonconforming building, land and use
1113.18 Occupancy certificate
1113.19 Performance standard
1113.20 Signs
1113.21 Streets
1113.22 Subdivision
1113.23 Trailers
1113.24 Use
1113.25 Variance
1113.26 Yards and courts
1113.27 Flood fringe
1113.28 Floodplain
1113.29 Flood, intermediate, regional

CHAPTER 1135: ESTABLISHMENT OF CODE AND MAP
Section

1135.01 Establishment of districts
1135.02 Establishment of use regulations
1135.03 Establishment of Zone Map
1135.04 District boundary lines
1135.05 Annexed territory

Cross-reference:

Amending procedures for Zoning Code and Map, see § 1199.01
Height districts, see Ch. 1181
Interpretations, see §§ 1131.04 and 1133.01
Jurisdiction of Zoning Appeal Board, see § 1197.01
Prohibited uses, see Ch. 1189
Use definitions, see § 1113.24

§ 1135.01 ESTABLISHMENT OF DISTRICTS.

In order to carry out the purpose of this Zoning Code the city is hereby divided into the following districts which are designated on the Zone Map by symbols and boundaries.

(a) These districts shall be known as:

<table>
<thead>
<tr>
<th>Title</th>
<th>Abbreviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Districts</td>
<td></td>
</tr>
<tr>
<td>One Family 60</td>
<td>R-60</td>
</tr>
<tr>
<td>One Family 40</td>
<td>R-40</td>
</tr>
<tr>
<td>One Family 20</td>
<td>R-20</td>
</tr>
<tr>
<td>One Family 16 (Detached, Semi-Attached and Attached)</td>
<td>R-16</td>
</tr>
<tr>
<td>One Family 8 (Detached, Semi-Attached and Attached)</td>
<td>R-8</td>
</tr>
<tr>
<td>Title</td>
<td>Abbreviation</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>Multi-Family (Apartment)</td>
<td>R-A</td>
</tr>
<tr>
<td><strong>Community Facilities</strong></td>
<td></td>
</tr>
<tr>
<td>Community Facilities</td>
<td>C-F</td>
</tr>
<tr>
<td><strong>Business Districts</strong></td>
<td></td>
</tr>
<tr>
<td>Office Building</td>
<td>OB</td>
</tr>
<tr>
<td>Local Business</td>
<td>LB</td>
</tr>
<tr>
<td>Shopping Center</td>
<td>SC</td>
</tr>
<tr>
<td>Commercial Service</td>
<td>CS</td>
</tr>
<tr>
<td>Motor Service</td>
<td>MS</td>
</tr>
<tr>
<td><strong>Industry</strong></td>
<td></td>
</tr>
<tr>
<td>Office Laboratory</td>
<td>OL</td>
</tr>
<tr>
<td>Manufacturing and Distribution</td>
<td>MD</td>
</tr>
<tr>
<td><strong>Parking</strong></td>
<td></td>
</tr>
<tr>
<td>Automotive Parking</td>
<td>AP</td>
</tr>
<tr>
<td><strong>Flood Plain</strong></td>
<td></td>
</tr>
<tr>
<td>Flood Plain</td>
<td>FP</td>
</tr>
</tbody>
</table>

(b) Abbreviated terms such as R-60, R-A, SC, and the like, used in this code shall be construed as referring to their corresponding district titles.

(c) The above classifications of districts shall not be construed as an enumeration of most-restrictive to least-restrictive districts except for the specific purposes set forth in this code.

(64 Code, § 1135.01) (Ord. 2129, passed 1-21-75)
§ 1135.02 ESTABLISHMENT OF USE REGULATIONS.

Any building or parcel of land may be used, and the use of any building and any parcel of land may be changed or extended, and any existing building may be altered, converted, enlarged, reconstructed, moved or maintained only for the uses specifically enumerated or referred to as permitted, or required, in the district in which the building or parcel of land is located and for no other use. The enumeration of uses within a district generally agrees with the Standard Industrial Classification of Uses of the U.S. Bureau of the Budget; it shall not be construed as a ranking of the most-desirable to less-desirable uses.

(a) Procedures and standards. The procedures and standards for evaluating and approving main, conditional and similar uses are set forth in §§ 1191.10 and 1191.11, and in various use regulations of this Zoning Code. Terms are defined in Chapter 1113 of the Subdivision Regulations.

(b) Accessory building and uses. Accessory buildings and uses shall be permitted as subordinate buildings or subordinate uses if they are clearly incident to and located on the same zoning lot as the main building or use, and if located in a district in which they are specifically permitted.

(c) Applicability. The use, change, extension, alteration, conversion, enlargement, reconstruction, relocation or maintenance of buildings and land shall be subject to all area, yard, height, off-street parking and all other regulations set forth or referred to for the district in which the building or parcel of land is located, and to all other applicable regulations of this Zoning Code.

(‘64 Code, § 1135.02) (Ord. 2042, passed 12-20-72)

§ 1135.03 ESTABLISHMENT OF ZONE MAP.

Districts are designated by symbols, and the locations and boundaries of the districts are established on a map entitled Zone Map of the City of Brecksville, Ohio. All notations, schedules and other information shown thereon are hereby made a part of this Zoning Code (Ordinance 2042, passed December 20, 1972) as enacted or subsequently amended in the same manner as other parts of this Code.

(‘64 Code, § 1135.03) (Ord. 2042, passed 12-20-72)
§ 1135.04 DISTRICT BOUNDARY LINES.

The district boundary lines of the Zone Map enclose the area of a designated district. District boundary lines generally follow recorded lot lines, the center lines of streets or alleys, railroad rights-of-way or their extension, provided, however:

(a) Where the district boundary line is shown by dimension or relationship as being located a specific distance from and/or parallel to a street line, such distance shall control;

(b) Unless otherwise fixed, where a district boundary line is shown as adjoining a railroad, it shall be construed to coincide with the nearest boundary line of the railroad right-of-way;

(c) Where a district boundary line divides a parcel of land, the location of such boundary, unless related to fixed points on the property boundary, shall be determined by scale and each part of the parcel shall comply with the regulations of the district in which it is located; or

(d) Where a district boundary line does not coincide with any of the aforesaid lines and where it is not located by dimensions or fixed points shown on the Zone Map it shall be determined by the scale appearing thereon and, in case of other uncertainties, the Planning Commission shall determine the exact location.

('64 Code, § 1135.04) (Ord. 2042, passed 12-20-72)

§ 1135.05 ANNEXED TERRITORY.

All territory which may hereafter be annexed to the city, if already zoned, shall be continued in its existing zone classification until amended in conformance with the procedures outlined in this Zoning Code.

('64 Code, § 1135.05) (Ord. 2042, passed 12-20-72)
§ 1137.01  OFFICIALS AND COMPLIANCE.

The administration of this Zoning Code is conferred upon the Building Commissioner, the Planning Commission and the Board of Zoning Appeals.

(a) Compliance with the provisions of this code shall be obtained by:

(1) Applying for and the issuance of a building permit along with a zoning certificate; and, if applicable, application for a conditional use permit, for approval of a development plan, for a development plan area, for determination of a similar use and appeal for interpretation of a provision of this code or for a variance;

(2) Periodical inspection during construction;

(3) Issuance of a certificate of occupancy upon completion of the work; and

(4) Enforcement against violations.

(b) The above outline of administrative and enforcement procedures in division (a) hereof is fully set forth in Title Eleven of this Code.

('64 Code, § 1137.01) (Ord. 2042, passed 12-20-72)
Chapter 1151 Residential Districts

Section

1151.01 Intent
1151.02 [Reserved]
1151.03 Use regulations
1151.04 Schedule of buildings and uses
1151.05 Conditional uses
1151.06 Accessory uses
1151.07 Temporary living space
1151.08 - 1151.10 [Reserved]
1151.11 Access to and parking areas for nonresidential uses
1151.12 Dwellings prohibited in areas subject to flooding
1151.13 Water and sewer connections required
1151.14 Dwelling unit area requirements
1151.15 - 1151.19 [Reserved]
1151.20 Regulation for one-family detached units on zoning lots
1151.21 Dimensions for one-family lots
1151.22 Schedule of one-family lot regulations
1151.23 Yard regulations for one-family lots
1151.24 Schedule of yard regulations for one-family lots
1151.25 Regulation of accessory uses on one-family lots
1151.26 Schedule of yard requirements for accessory uses on one-family lots
1151.27 Supplemental regulations for corner lots on arterial or collector streets
1151.28 Supplemental regulations for through lots abutting an arterial or collector street
1151.29 Supplemental development standards for R-8A District
§ 1151.01 INTENT.

Residential districts and their regulations are hereby established in order to achieve, among others, the following purposes:

(a) To regulate the bulk and location of buildings in relation to the land in order to obtain proper light, air, privacy and usable open spaces on each zoning lot appropriate for the district;

(b) To regulate the density and distribution of population in accordance with the objectives of the residential plan, to avoid congestion and to maintain adequate services;

(c) To preserve and enhance those elements of the natural environment that give Brecksville its essential character; and

(d) To protect the desirable characteristics of existing residential development, to promote the most desirable and beneficial use of the land and to bring about the eventual conformity with the Master Plan and other plans of the city.

(Ord. 3443, approved by voters 11-7-95)

§ 1151.02 [RESERVED].

§ 1151.03 USE REGULATIONS.

Buildings and land shall be used and buildings shall be erected, altered, moved and
maintained only as permitted in the following schedules and regulations:

(a) **Main buildings and uses.** The main buildings and uses enumerated in § 1151.04 are permitted by right in the district indicated.

(b) **Conditional Uses.** The conditional uses as enumerated in § 1151.04 may be permitted upon the granting of a conditional use permit upon meeting the conditions set forth in § 1151.05 and according to the procedures set forth in § 1191.10.

(c) **Accessory Uses.** The accessory uses enumerated in the § 1151.04 are permitted in accordance with the provisions of § 1151.06.

(Ord. 3443, approved by voters 11-7-95)

§ 1151.04 SCHEDULE OF BUILDINGS AND USES.

<table>
<thead>
<tr>
<th>DISTRICT DESIGNATION</th>
<th>MAIN BUILDING AND USE</th>
<th>BY CONDITIONAL USE PERMIT</th>
<th>ACCESSORY BUILDING AND USE</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-60</td>
<td>Detached one-family dwellings</td>
<td>Planned Development Areas; rural residential subdivisions; farming, farm buildings and commercial greenhouses; community facilities (Class A)</td>
<td>Private garages and parking areas; signs; private gardens and recreation uses, structures, walls and fences; keeping domestic animals; renting a room; home offices and occupations; private swimming pools; horses and ponies; storage of commercial vehicles, recreation vehicles and related equipment</td>
</tr>
<tr>
<td>R-40</td>
<td>Detached one-family dwellings</td>
<td>Conditional uses permitted in R-60</td>
<td>Accessory uses as permitted in R-60</td>
</tr>
<tr>
<td>R-30</td>
<td>Detached one-family dwellings</td>
<td>Conditional uses permitted in R-60</td>
<td>Accessory uses as permitted in R-60</td>
</tr>
<tr>
<td>R-20</td>
<td>Detached one-family dwellings</td>
<td>Conditional uses permitted in R-60</td>
<td>Accessory uses as permitted in R-60</td>
</tr>
<tr>
<td>R-16 &amp; R-8</td>
<td>Detached one-family dwellings</td>
<td>Semi-attached one-family dwelling and attached one-family dwelling as part of Planned Development Areas; community facilities</td>
<td>Private garages and parking areas; signs; private gardens and recreation uses, structures, walls and fences; keeping domestic animals; renting a room; home offices and occupations; private swimming pools; horses and ponies; storage of commercial vehicles, recreation vehicles and related equipment</td>
</tr>
</tbody>
</table>
§ 1151.05 CONDITIONAL USES.

The conditional uses enumerated in § 1151.04 may be permitted in accordance with the provisions of § 1191.10 when the Planning Commission finds that all of the following conditions for such uses are satisfied:

(a)  *Farming, farm buildings and commercial greenhouses.* Farming, farm buildings and commercial greenhouses may be permitted when the following conditions are met, except stables shall be permitted as regulated by § 1151.06(g):

1. Such uses are located upon a lot containing not less than 10 acres;
2. No farm building or commercial greenhouse shall be located within 200 feet of a right-of-way or lot line;
3. Such uses are so located that they will not disrupt the orderly development of the community; and
4. Buildings to accommodate retail sales of products or produce shall not be permitted.

(b)  *Community facilities.* Community facilities of the classes enumerated in § 1151.04 may be permitted when:

1. Such community facilities are developed in accordance with the planning
criteria of Chapter 1153.

(2) Class A Community Facilities shall have direct vehicular access to a collector or arterial street.

(3) Development area plans for community facilities are approved in accordance with the provisions of Chapter 1195.

(c) Planned Development Areas. A Planned Development Area is a development which maybe conditionally permitted at the recommendation of the Planning Commission and approval of Council in compliance with Chapter 1179 for any one-family residential zoning district when:

(1) It is determined by the Commission and Council that it is in keeping with the intent of the district in which the planned development is located and the character of the city, and will enhance and complement the city;

(2) It complies with all of the regulations for the district in which the planned development is located, unless such regulations have been otherwise modified for planned developments by Chapter 1179.

(3) A Planned Development Area shall be approved in accordance with the provisions of Chapter 1179, Chapter 1195 and the applicable provisions contained in Title Three - Land Planning and Subdivision Regulations.

(d) Rural residential subdivision. A rural residential subdivision is a large lot one-family subdivision which may be conditionally permitted at the recommendation of the Planning Commission and approval of Council in compliance with the following:

(1) Minimum development area. A rural residential subdivision development shall have a minimum area of 10 acres.

(2) Minimum lot size. Each lot in a rural residential subdivision shall have an area of three or more acres.

(3) Minimum lot width. All lots shall comply with the minimum lot width requirements set forth in § 1151.22; however, the average of the lot widths shall be not less than 275 feet.

(4) Yard requirements. All lots shall comply with the yard requirements set forth in the schedule established in § 1151.24 for the district in which the rural residential subdivision is located.

(5) Waiver of certain subdivision regulations. In a rural residential subdivision, the subdivision requirements for utilities, sidewalks, minimum street width and
other relevant requirements may be changed, reduced or eliminated if recommended by the Planning Commission and the City Engineer, and approved by Council.

(6) Water and sewer connections. On-site water and sewer facilities may be permitted for lots in a rural residential subdivision provided the Planning Commission determines that centralized water and sewer connections from utilities are not, as a practicable matter, available in the foreseeable future. Written documentation from the County Health Department of approval of on-site water and sewer facilities shall be provided for each lot.

(7) Subdivision plat. A subdivision plat shall be submitted, reviewed and considered for approval in accordance with the provisions contained in Title Three - Land Planning and Subdivision Regulations.

(Ord. 3443, approved by voters 11-7-95; Am. Ord. 3582, passed 8-5-97)

§ 1151.06 ACCESSORY USES.

The accessory uses enumerated in § 1151.04 and the like and similar accessory uses for all residential districts as authorized by the Planning Commission and approved by Council, shall be permitted in accordance with the following regulations:

(a) Parking and garage facilities. Private garages, storage garages for apartment dwellings and open off-street parking areas incident to a permitted main use as set forth in the schedule established in § 1151.04 shall be permitted in residential districts as an accessory use in accordance with the regulations set forth in this Chapter and Chapter 1183. A lot that fronts on an arterial or collector street shall provide a driveway turnaround area adequate to allow vehicles to exit onto the street in a forward moving manner.

(b) Signs. Signs in residential districts shall be designed, erected, altered, moved and maintained, in whole or in part, in accordance with § 1187.08.

(c) Home offices or occupation. The purpose of these regulations is to control the nonresidential use of a residential dwelling unit so that the nonresidential use is limited to an accessory use, and does not in any manner whatsoever disrupt or alter the residential character of the neighborhood in which it is located. Compliance with these regulations should result in all such occupations being located and conducted in such a manner that their existence is not detectable in any manner from the outside of the dwelling unit. A home office or occupation shall only be permitted in accordance with the following criteria and limitations:

(1) The home office or occupation shall be clearly incidental and secondary in importance to the use of the dwelling for dwelling purposes.
Any on-site business related in any manner to the home office or occupation shall be conducted only by permanent occupants of the dwelling unit. One additional employee shall be permitted to be employed on the premise.

The business activity, including the storage of equipment, supplies or any apparatus used in the home office or occupation, shall be conducted entirely within the dwelling unit and no use of a garage, an accessory building or an outdoor area shall be permitted.

A home office or occupation may be conducted in any area of the dwelling including the basement, provided such occupation shall occupy no more than one room in the dwelling unit or an area equal to 20% of the area of the main floor of the dwelling unit, whichever is greater. The area of an attached garage shall not be included when calculating the area of the main floor of the dwelling unit.

Any activity, material, goods, or equipment indicative of the proposed use shall be carried on, utilized or stored within the dwelling unit and shall not be visible from any public way or adjacent property.

The business activity shall not create a nuisance by reason of generating any noise, odor, dust, vibrations, fumes, smoke, electromagnetic interference or truck or delivery vehicle traffic which would depreciate or change the residential character of the neighborhood in which the proposed use is located.

There shall not be any change in the outside appearance of the building or premises, or other visible exterior change related to the home office or occupation.

The business activity shall not constitute a fire hazard endangering the site of the home office or occupation and adjoining property sites. There shall be no storage of hazardous, combustible or flammable matter, accumulation of rubbish or waste paper, and storage of cartons and/or boxes situated in a manner that would endanger life or property in case of an actual fire.

The business activity shall not cause an increase in the use of any one or more public utilities (water, sewer, electric, sanitation, etc.) so that the combined use of the residence and home office or occupation does not exceed the average use for residences in the neighborhood of the proposed use.

The number of automobiles or trucks attracted to the premise shall not be greater than that which is normally associated with residential uses including normal fluctuations in level of residential activities.

Failure to comply with the regulations of this section shall be a violation of this Zoning Code and shall subject the owner and/or person in control of the premises to the
enforcement and penalty procedures set forth in Chapter 1191.

(d) **Renting of rooms.** The renting from a resident family of not more than one room to not more than one person shall be permitted in any residential district.

(e) **Private gardens.** The raising for private use, consumption or incidental sale of fruits, vegetables or nursery stock shall be permitted, provided no permanent structure shall be erected for the sale of any products and no products shall be sold except those which are produced on the premises.

(f) **Domestic Animals.** The keeping of domestic animals such as dogs, cats, rabbits and fur-bearing animals as pets shall be permitted in residential districts in compliance with the following:

1. Not more than four animals older than four months in age shall be raised on a lot in a residential district.

2. Such pets shall not create a nuisance by reason of generating excessive noise or any odor detectable at the perimeter of the lot.

3. Any accessory structure used to house such pet(s) shall only be located in a rear yard, and shall be set back not less than 40 feet from all adjoining residential lot lines.

4. The keeping of horses and ponies shall comply with § 1151.06(g).

(g) **Horses and ponies.** The keeping of horses and ponies may be permitted when the Building Commissioner certifies compliance with location, area and sanitary regulations, construction standards and any other requirements of Chapter 1324 of Part Thirteen - Building Code and any other applicable codes, and when the corral and the animals it contains are screened from all streets by a landscaped screen or by a building or buildings.

(h) **Private swimming pools.**

1. A private pool as used in this Zoning Code is a pool or open tank containing at least 1½ feet of water at any point and maintained by:

   A. An individual for the exclusive use of his household.

   B. An apartment development, hotel, tourist home, club or similar group or institution for the exclusive use of tenants and guests without charge for admission.

   C. A private club or homeowners association incorporated as a nonprofit organization for the exclusive use of a limited number of members and guests.

2. A private swimming pool shall be permitted provided that:
A. A buffer is provided to all adjacent property. The buffer shall be a compact hedge or similar landscaping at least five feet in height, or fencing in compliance with Chapter 1323 of Part Thirteen - Building Code.

B. Parking spaces are provided for members of a club, homeowners association, institution or similar group as required in Chapter 1183.

C. Application to the Building Commissioner has been approved certifying compliance with § 1191.06.

(i) **Storage of commercial vehicles, recreation vehicles and related equipment.** The storage of commercial vehicles and equipment, boats, recreational vehicles and equipment on residential land shall be regulated as follows:

1. No commercial vehicles or equipment shall be on any premises or in any garage in any residential district except that an occupant shall be permitted to park a panel or pickup truck, not exceeding 10,000 pounds gross vehicle weight rated capacity, used in connection with his or her livelihood, wholly within a garage.

2. No person shall park or store any recreational vehicles, boats, boat trailers, pick-up truck campers, motorized homes, folding tent trailers or other camping or recreational equipment on any street or highway or public or private property within the city except as hereinafter provided. Any owner of recreational equipment, not in excess of 27 feet in overall length, on property owned by him or her in accordance with the following conditions:

   A. Recreational equipment and vehicles described herein, parked or stored, shall not have fixed connections to electricity, water, gas or sanitary sewer facilities and at no time shall such equipment be used for living or housekeeping purposes.

   B. All such recreational equipment and vehicles shall be stored wholly within a garage or, if stored in the open, such vehicles and equipment shall be stored in the rear yard at least ten (10) feet from any adjoining property line, taking into account terrain, grade, natural or permanent obstacles, as approved by the Building Commissioner. At least two-thirds of their total vertical height or five feet, whichever is greatest, shall be screened from the view of all public streets and adjoining lots by substantially solid landscaped evergreen plantings and/or other appropriate screening as approved by the Building Commissioner.

   C. All recreational equipment and vehicles described herein shall be kept in good repair and carry a current license and/or registration.

(j) **Fences.** Fences in residential districts shall be designed, erected, altered, moved and maintained in whole or in part, in accordance with Chapter 1185 of the Code.

(Ord. 3443, approved by voters 11-7-95; Am. Ord. 3741, passed 7-20-99; Am. Ord. 3943,
§ 1151.07 TEMPORARY LIVING SPACE.

Temporary living space, or those spaces used until the main dwelling is completed, generally located in basements, garages or non-structures such as trailers, shall not be permitted in any of the residential districts. A dwelling may, however, be occupied before completion on or above the ground floor, provided:

(a) The exterior of the dwelling is enclosed and completed and the yard is backfilled and graded;
(b) The plumbing, heating and electrical wiring is installed and safely enclosed;
(c) The walls and ceiling of the principal rooms are covered with the basic wall material; and
(d) A temporary certificate of occupancy is obtained for a period not to exceed 120 days.

(Ord. 3443, approved by voters 11-7-95)

§§ 1151.08 - 1151.10 [RESERVED].

§ 1151.11 ACCESS TO AND PARKING AREAS FOR NONRESIDENTIAL USES.

Driveways to and off-street parking areas for any use not permitted in the district shall be prohibited.

(Ord. 3443, approved by voters 11-7-95)

§ 1151.12 DWELLINGS PROHIBITED IN AREAS SUBJECT TO FLOODING.

No building permit shall be issued for the construction of any proposed dwelling unit to be located on any lot unless the City Engineer has certified that the location and elevation of the proposed dwelling unit are such that the dwelling unit shall not be subject to flooding by a
100-year flood.
(Ord. 3443, approved by voters 11-7-95)

§ 1151.13 WATER AND SEWER CONNECTIONS REQUIRED.

Each detached, semi-attached, attached and apartment dwelling unit shall be provided with connections to a city approved water main, storm sewer system and sanitary sewer system, provided, however, that:

(a) A detached one-family dwelling may be permitted on an existing lot of record or lot created by a minor subdivision of land pursuant to Chapter 1115 without such connections, provided:

(1) Such zoning lot has a width of not less than 200 feet and an area of not less than 40,000 square feet;

(2) Centralized utility connections are not available; and

(3) The property owner has obtained written approval from the County Health Department for on-site water and sewer systems.

(b) All zoning lots created by a major subdivision of land pursuant to Chapter 1115 shall have centralized utility connections unless created as part of a Rural Residential Subdivision pursuant to Section 1151.05(d).

(c) The Planning Commission may recommend to Council the approval of individual lots of reduced size in minor subdivisions if it finds that:

(1) The topography of land and the drainage thereof is such that no health hazard will be created by the proposed development of such lots.

(2) Fifty percent or more of the lots in that subdivision meet the specific requirements of division (a) hereof.

(3) The lots of the subdivision not meeting the specific requirements shall be in substantial conformity with division (a) hereof.

(Ord. 3443, approved by voters 11-7-95)

§ 1151.14 DWELLING UNIT AREA REQUIREMENTS.
In order to provide healthful living conditions and to preserve the character of the neighborhood, dwellings shall be erected, altered, moved, maintained or occupied only in accordance with the following standards establishing minimum areas of dwelling units:

(a) **Dwelling Unit Area defined.**

**DWELLING UNIT AREA.** For the above purpose, the area of a dwelling unit shall be the sum of the gross floor areas above the basement level, including those rooms and closets having a minimum ceiling height of 7½ feet and having the natural light and ventilation as required by the Building Code; rooms above the first floor shall be included which are directly connected by a permanent stairs and hall, and spaces under pitched roofs having a minimum knee wall height of five feet if two-thirds of the room area has a minimum ceiling height of 7½ feet.

The area shall be measured from the interior face of the enclosing walls at the first floor line and the interior face of the walls of those rooms which may be included under a pitched roof for one-family dwellings and measured from the center line of party walls, where applicable, for semi-attached, attached or apartment dwellings. All areas within garages and porches, utility and general storage rooms in basementless dwellings, and public halls and general storage rooms in apartment dwellings shall be excluded in this measurement.

(b) **Minimum area.** The minimum area of a dwelling unit shall not be less than established in the following schedule:

<table>
<thead>
<tr>
<th>Number of Bedrooms Per Unit</th>
<th>Detached, Semi-Attached and Attached One-Family Dwellings</th>
<th>Apartment Dwellings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Efficiency</td>
<td>---</td>
<td>750</td>
</tr>
<tr>
<td>One Bedroom</td>
<td>1,100</td>
<td>900</td>
</tr>
<tr>
<td>Two Bedroom</td>
<td>1,300</td>
<td>1,100</td>
</tr>
<tr>
<td>Three Bedroom</td>
<td>1,550</td>
<td>1,350</td>
</tr>
</tbody>
</table>

In determining the minimum area, every room which can be used as a bedroom shall be considered a bedroom. For any dwelling unit containing more than three bedrooms, there shall be an additional 250 square feet of floor area for each additional bedroom.

(c) **General storage area.** At least 60 square feet of general storage space, having an average height of at least seven feet, shall be provided for each apartment dwelling.
§ 1151.20 REGULATION FOR ONE-FAMILY DETACHED UNITS ON ZONING LOTS.

The provisions of §§ 1151.20 to 1151.29 inclusive of this Chapter apply to the lot area and yard regulations for one-family detached dwelling units on individually subdivided zoning lots.

(Ord. 3443, approved by voters 11-7-95)

§ 1151.21 DIMENSIONS FOR ONE-FAMILY LOTS.

Land shall be divided and developed and one-family detached dwelling units shall be erected, altered, moved or maintained in any one-family residential district only in compliance with the following lot regulations:

(a) Lot area. The area of a lot that may be used for the purposes of a one-family dwelling unit shall be not less than the area set forth in § 1151.22 for the district in which the lot is located. In certain districts, the minimum lot area can be achieved only for lots fronting on a local street. On arterial and collector streets, compliance with the lot width and lot depth regulations results in larger lot area.

(b) Dwelling units permitted on a zoning lot. Not more than one one-family dwelling unit shall be permitted on a lot when developed pursuant to § 1151.20.

(c) Lot width. The width of a lot measured at the building setback line shall be related to the type of street on which it fronts, as indicated on the Zoning Map, and shall be not less than the width set forth in § 1151.22 for the district in which the lot is located.

(d) Lot frontage. Each lot shall abut a dedicated street for a distance not less than 60% of the lot width set forth in § 1151.22 required at the building setback line.

(e) Lot depth. The depth of a lot shall be not less than the depth set forth in § 1151.22 for the district in which the lot is located. Through lots abutting an arterial or collector street and lots abutting I-77, the Ohio Turnpike or an electrical high tension power line easement
shall have sufficient lot depth to comply with the yard requirements in § 1151.23.

(f) Lot coverage in an R-8A District. The maximum main building coverage of a lot in an R-8A District shall be 25%.

(Ord. 3443, approved by voters 11-7-95)

§ 1151.22 SCHEDULE OF ONE-FAMILY LOT REGULATIONS.

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>MINIMUM LOT AREA PER DWELLING UNIT (square feet)</th>
<th>MINIMUM LOT WIDTH WITH ACCESS (in feet) TO:</th>
<th>MINIMUM LOT DEPTH (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Arterial or Collector</td>
<td>Local</td>
</tr>
<tr>
<td>R-60</td>
<td>60,000</td>
<td>200</td>
<td>150</td>
</tr>
<tr>
<td>R-40</td>
<td>40,000</td>
<td>200</td>
<td>125</td>
</tr>
<tr>
<td>R-30</td>
<td>30,000</td>
<td>175</td>
<td>125</td>
</tr>
<tr>
<td>R-20</td>
<td>20,000</td>
<td>150</td>
<td>100</td>
</tr>
<tr>
<td>R-16</td>
<td>16,000</td>
<td>No Access a</td>
<td>80</td>
</tr>
<tr>
<td>R-8</td>
<td>8,000</td>
<td>No Access a</td>
<td>50</td>
</tr>
<tr>
<td>R-8A</td>
<td>8,000</td>
<td>No Access a</td>
<td>50</td>
</tr>
</tbody>
</table>

Notes to schedule:

a A front yard shall not abut an arterial or collector street.

b Provided that the lot depth shall be adequate to comply with the lot area requirements set forth in this schedule and the yard requirements set forth in Section 1151.23.

c The type of street with which the front lot line is coincident shall determine the minimum lot width and lot depth.

N/A Not applicable.
§ 1151.23 YARD REGULATIONS FOR ONE-FAMILY LOTS.

Each one-family dwelling unit shall be designed, erected, altered and moved only in a manner that maintains the minimum front, side and rear yards in accordance with the following regulations. Such required yards shall not be obstructed by any structure except as otherwise provided in §§ 1151.25, 1151.29 and 1151.39.

(a) Front yard. Each lot shall have one (1) front yard. The front yard shall be related to the type of street on which the lot abuts based on the classification of streets identified on the Zoning Map. The minimum front yard shall be determined by one of the methods set forth in subsections (1), (2) and (3) below and the maximum front yard shall be not more than ten (10) lineal feet greater than the minimum. The lot shall comply with the minimum lot width requirement at the building setback line.

   (1) The minimum front yard shall be not less than the depth set forth in § 1151.24 for the district in which the lot is located; or

   (2) The minimum front yard shall be established by the Planning Commission at the time a subdivision plat is approved. The corresponding building setback line shall be shown on the approved plat; or

   (3) Whenever fifty percent (50%) or more of the frontage within three hundred (300) feet of the lot is occupied by buildings having a front yard less than or more than the requirements set forth in subsections (a)(1) and a minimum front yard has not been established on the subdivision plat by the Planning Commission as in (a)(2), then the required front yard for the lot shall be established by the Planning Commission.

   (4) Other than for the setbacks established in § 1151.24, the Planning Commission shall hold a public hearing prior to determining the minimum front yard of any lot for which the Planning Commission is authorized to establish. The hearing shall be held in accordance with the provisions contained in § 1115.05(c)(3).

(b) Corner lots. A lot abutting two (2) intersecting streets shall maintain the yard requirements set forth in § 1151.24 for each of the yards that abut the two streets.

(c) Side yards. Each lot shall have two (2) side yards. The width of required side yards shall be not less than the distance set forth in § 1151.24 for the district in which the lot is located.

(d) Rear yard. Each lot shall have a rear yard of a depth not less than the distance set
forth in § 1151.24 for the district in which the lot is located.

(e) **Through lots.** A through lot that has the rear lot line abutting an arterial or collector street right-of-way shall have a minimum rear yard of two hundred fifty (250) feet.

(f) **Lots adjacent to I-77, Ohio Turnpike.** On lots abutting an interstate freeway, the dwelling unit shall be located so that the nearest portion of the dwelling unit shall be no less than two hundred fifty (250) feet from the freeway right-of-way. At the time the Planning Commission reviews a subdivision plat, the Planning Commission may request that noise studies be conducted to determine the need for the construction of screening, buffering or other noise barriers to minimize the impact of noise from the adjacent freeway.

(g) **Lots Adjacent to an Electrical High Tension Power Line Easement.** On lots abutting an electrical high tension power line easement, the nearest portion of a dwelling unit shall be located no less than three hundred (300) feet from the easement.

(Ord. 3443, approved by voters 11-7-95; Am. Ord. 3824, passed 8-1-00)

§ 1151.24 **SCHEDULE OF YARD REGULATIONS FOR ONE-FAMILY LOTS.**

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>MINIMUM FRONT YARD (^a) DISTANCE (in feet) FROM:</th>
<th>SIDE YARDS (^a) (in feet)</th>
<th>MINIMUM REAR YARD (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arterial or Collector</td>
<td>Local</td>
<td>Minimum Yard</td>
<td>Total 2 Yards</td>
</tr>
<tr>
<td>R-60</td>
<td>125</td>
<td>60 (^c)</td>
<td>20 (^d)</td>
</tr>
<tr>
<td>R-40</td>
<td>125</td>
<td>60 (^c)</td>
<td>20 (^d)</td>
</tr>
<tr>
<td>R-30</td>
<td>125</td>
<td>60 (^c)</td>
<td>20 (^d)</td>
</tr>
<tr>
<td>R-20</td>
<td>125</td>
<td>60 (^c)</td>
<td>10</td>
</tr>
<tr>
<td>R-16</td>
<td>125 (^b)</td>
<td>60 (^c)</td>
<td>10</td>
</tr>
<tr>
<td>DISTRICT</td>
<td>MINIMUM FRONT YARD (^a) DISTANCE (in feet) FROM:</td>
<td>SIDE YARDS (^a) (in feet)</td>
<td>MINIMUM REAR YARD (in feet)</td>
</tr>
<tr>
<td>----------</td>
<td>-----------------------------------------------</td>
<td>------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Arterial or Collector</td>
<td>Local</td>
<td>Minimum Yard</td>
<td>Total 2 Yards</td>
</tr>
<tr>
<td>R-8</td>
<td>125 (^b)</td>
<td>50 (^c)</td>
<td>5</td>
</tr>
<tr>
<td>R-8A</td>
<td>125 (^b)</td>
<td>25</td>
<td>5</td>
</tr>
</tbody>
</table>

Notes to schedule:

\(^a\) A side yard adjacent to a street shall comply with the front yard requirements for the district in which the lot is located.

\(^b\) A front yard shall not abut an arterial or collector street; the setback requirement applies to a side yard adjacent to such street.

\(^c\) Unless established otherwise according to § 1151.23(a); and provided the maximum front yard complies with § 1151.23(a).

\(^d\) Required only on lots having a lot width of at least one hundred twenty-five (125) feet. Lots having a reduced non-conforming lot width shall maintain a minimum side yard of ten (10) feet and a total side yard of thirty (30) feet.

(Ord. 3443, approved by voters 11-7-95; Am. Ord. 3741, passed 7-20-99)

§ 1151.25 REGULATION OF ACCESSORY USES ON ONE-FAMILY LOTS.

An accessory use permitted in a residential district may either occupy a part of the main building, occupy a separate accessory structure or constitute an accessory land use.

(a) Locations of accessory buildings and uses. Accessory buildings and uses shall be
located in compliance with the requirements set forth in the schedule established in § 1151.26.

(b) Through lots. For a through lot abutting an arterial or collector street, accessory buildings shall not be located in the additional rear yard required by § 1151.23(e) and shall be not less than 125 feet from the arterial or collector street right-of-way. The additional rear yard shall be the difference between the 250 feet requirement established in § 1151.23(e) and the rear yard area required to comply with the lot area requirement set forth in § 1151.22 for the district in which the lot is located.

(c) Use and design of yards. The required yards, set forth above, shall be landscaped or maintained except for area to be used for pedestrian walks and private driveway.

(d) Maximum floor area of accessory structures.

(1) The maximum area of a detached private garage shall be six hundred sixty (660) square feet.

(2) The maximum area of shed or similar structure, shall be:

A. One hundred forty-four (144) square feet in Zoning Districts R-A, R-8A, R-8, and R-16;
B. One hundred ninety-two (192) square feet in Zoning Districts R-20 and R-30;
C. Two hundred forty (240) square feet in Zoning Districts R-40 and R-60.

(3) The maximum area of a pergola, pavilion, gazebo, or other similar structure, each of the foregoing being designed and constructed as predominately open to the elements, shall be:

A. Two hundred fifty-six (256) square feet in Zoning Districts R-A, R-8A, R-8, and R-16;
B. Four hundred (400) square feet in Zoning Districts R-20 and R-30;
C. Five hundred fifty (550) square feet in Zoning Districts R-40 and R-60.

(Ord. 3443, approved by voters 11-7-95; Am. Ord. 5134, passed 12-5-17)
# ONE-FAMILY LOTS.

<table>
<thead>
<tr>
<th>PERMITTED USE, STRUCTURE OR BUILDING</th>
<th>YARD IN WHICH PERMITTED</th>
<th>MINIMUM DISTANCE (in feet) FROM:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Front Lot Line</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>-------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>1. Accessory building, including detached private garages</td>
<td>Rear</td>
<td>Not permitted</td>
</tr>
<tr>
<td>2. Accessory structures, including tool shed, child's play equipment, exercise equipment, hot tub, gazebo, barbecue pit (unless otherwise noted below)</td>
<td>Rear</td>
<td>Not permitted</td>
</tr>
<tr>
<td>3. Decks f</td>
<td>Not permitted in a required yard</td>
<td>g</td>
</tr>
<tr>
<td>4. Basketball net, pole</td>
<td>Front, Side and Rear</td>
<td>40</td>
</tr>
<tr>
<td>5. Wood pile, compost pile</td>
<td>Rear</td>
<td>Not permitted</td>
</tr>
<tr>
<td>6. Fence c</td>
<td>Front, Side and Rear</td>
<td>none d</td>
</tr>
<tr>
<td>7. Open parking area b, driveway h, walkway h</td>
<td>Front, Side and Rear</td>
<td>none</td>
</tr>
<tr>
<td>8. Other paved areas and structures having a total height less than eight inches (i.e. brick, stone or concrete patio, or wood platform)</td>
<td>Side and Rear</td>
<td>Not permitted</td>
</tr>
</tbody>
</table>

Notes to schedule:

a Accessory structures attached to the dwelling shall comply with the regulations for projections into yards established in § 1151.39(a). Moveable children's play equipment having a height less than five feet shall not be regulated.

b Storage of commercial vehicles and equipment, boats, and recreational vehicles and equipment shall comply with § 1151.06(i).
PERMITTED USE, STRUCTURE OR BUILDING | YARD IN WHICH PERMITTED | MINIMUM DISTANCE (in feet) FROM:
--- | --- | --- | ---
 | Front Lot Line | Side Lot Line | Rear Lot Line | Main Building

- **c** See § 1151.39(b) for additional regulations pertaining to fences.
- **d** A fence in a front yard shall be permitted only along the side lot line.
- **e** Five feet for lots in an R-8 or R-8A District.
- **f** Any platform having a height of eight inches or more above the average finished grade shall be considered a deck.
- **g** Shall comply with the yard requirements set forth in the schedule established in § 1151.24.
- **h** Replacement driveways and walkways may utilize existing setback unless the Building Commissioner and/or engineer require otherwise.

(Ord. 3443, approved by voters 11-7-95; Am. Ord. 3617, passed 11-4-97)

§ 1151.27 SUPPLEMENTAL REGULATIONS FOR CORNER LOTS ON ARTERIAL OR COLLECTOR STREETS.

Corner lots having one or both frontages on an arterial or collector street shall comply with the following supplemental regulations:

(a) The side of the dwelling unit facing the major street shall have an appearance which is characteristic of the front elevation of a dwelling.

(b) The driveway access shall be located on the minor street;

(c) The rear yard shall be screened from view from the major street;

(d) The building orientation, building design and screening of the rear yard shall be approved by the Planning Commission pursuant to § 1151.51(a).

(Ord. 3443, approved by voters 11-7-95)

§ 1151.28 SUPPLEMENTAL REGULATIONS FOR THROUGH LOTS ABUTTING AN
ARTERIAL OR COLLECTOR STREET.

In addition to the additional rear yard requirement set forth in § 1151.23(e), through lots abutting an arterial or collector street shall provide a landscaped buffer area in compliance with the following:

(a) The buffer area shall have a width of not less than forty (40) feet and shall be located adjacent to the entire length of the right-of-way of the arterial or collector street abutting the lot.

(b) Such buffer area shall have a minimum height of six (6) feet to effectively screen the view of the rear of the dwelling from the arterial or collector street.

(c) The buffer area shall be approved by the Planning Commission pursuant to § 1151.51(i).

(Ord. 3443, approved by voters 11-7-95)

§ 1151.29 SUPPLEMENTAL DEVELOPMENT STANDARDS FOR R-8A DISTRICT.

In addition to the lot, yard and other requirements set forth in §§ 1151.21 through 1151.28, all lots in an R-8A District shall comply with the following supplemental development standards.

(a) Maximum number of accessory buildings. A maximum of two (2) detached accessory buildings shall be permitted on a lot, provided that there shall be not more than one (1) garage. Such garage shall be either an attached or detached garage.

(b) Maximum rear yard coverage of accessory uses. The maximum percentage of the rear yard that shall be covered by accessory uses, buildings and structures (limited to the accessory uses regulated on the schedule established in § 1151.26) shall be forty percent (40%) of the total area of the rear yard.

(c) Required garages. Two enclosed parking spaces shall be required, except that existing one-car garages shall be permitted to be maintained, preserved, and, in the event such garage is destroyed, rebuilt as a one-car garage pursuant to § 1151.51(a).

(Ord. 3443, approved by voters 11-7-95; Am. Ord. 3824, passed 8-1-00)
§ 1151.30 REGULATION OF APARTMENTS IN AN R-A DISTRICT.

The provisions of §§ 1151.30 through 1151.34 apply to the density, setback and building separation regulations for apartment units in an R-A District.

(Ord. 3443, approved by voters 11-7-95)

§ 1151.31 DEVELOPMENT AREA AND DENSITY REGULATIONS IN AN R-A DISTRICT.

Land area shall be divided and developed, and dwelling units shall be erected, altered, moved or maintained in an R-A District only in compliance with the following area regulations to ensure that each apartment development creates an appropriate residential environment:

(a) **Minimum area.** The gross area of a tract of land proposed to be developed for apartment units shall be not less than five (5) acres. The entire tract of land to be developed shall be considered one (1) zoning lot.

(b) **Buildings on a lot.** More than one (1) apartment building may be developed on the same zoning lot.

(c) **Maximum permitted dwelling units.** The residential density of an apartment development shall not exceed ten (10) dwelling units per acre. The maximum permitted density may not be able to be achieved on small sites given the maximum lot coverage, setback standards and parking requirements with which such lots shall comply. The total number of dwelling units permitted shall be calculated by multiplying the total land area, exclusive of public streets existing at the time the development plan is submitted, by the number of dwelling units permitted per acre.

(d) **Maximum coverage.** The maximum coverage of the lot, including all areas covered by buildings, vehicular drives, and parking areas shall not exceed fifty percent (50%) of the total area of the development project.

(e) **Recreation open space.** Each dwelling unit shall have available to the use of its occupants a minimum of one thousand (1,000) square feet of usable recreation open space in public or common ownership not exceeding an average slope of fifteen percent (15%). To satisfy the requirements of this section, the usable recreation open space required for a dwelling unit shall not satisfy the requirement for any other dwelling unit.
§ 1151.32 SITE REGULATIONS FOR APARTMENT DEVELOPMENTS IN AN R-A DISTRICT.

The following planning criteria are established to regulate the planning and development of apartments:

(a) **Setback from project boundary.** The setback of an apartment dwelling from any project boundary shall be based on the length of the apartment dwelling wall facing the project boundary and shall be not less than the distance set forth below:

1. When abutting an arterial or collector street, the minimum setback shall be one hundred twenty-five (125) feet.

2. When abutting all other project boundary lines, the minimum setback shall be:
   
   A. Eighty (80) feet or a distance equal to the length of the wall, whichever is greater, when adjacent to an R-60, R-40, R-30 or R-20 District;
   
   B. Sixty (60) feet or a distance equal to one-half (½) the length of the wall, whichever is greater, when adjacent to an R-16, R-8 or R-8A District, or any non-residential district.

3. The project boundary shall include all lot lines that divide the tract of land developed for apartments from adjacent lots not included in the apartment development and shall be the boundaries of the minimum area set forth in § 1151.31(a).

(b) **Building spacing.** The minimum distance separating any apartment building, or part thereof, from the nearest building shall be not less than the distance set forth below:

1. When the main wall of one (1) dwelling overlaps the main wall of a second dwelling, the minimum separation shall be eighty (80) feet or equal to the length of overlap, whichever is greater.

2. When the main wall of one (1) dwelling overlaps the end wall of a second dwelling, minimum separation shall be fifty (50) feet or equal to one-half (½) of the length of overlap, whichever is greater (overlap length x .5).

3. When the end wall of one (1) dwelling overlaps the end wall of a second dwelling, minimum separation shall be twenty-five (25) feet or equal to one-quarter (¼) of the
length of overlap, whichever is greater (overlap x .25).

(4) Non-overlapping walls shall have a minimum separation of twenty-five (25) feet.

(5) Definitions. The terms used in this section are defined as follows:

END WALL. Means an exterior wall, other than a main wall, which may be a blank surface or contain windows other than primary windows.

LENGTH OF OVERLAP. Means the length of an exterior wall (or portion thereof) of a building which is directly opposite an exterior wall (or portion thereof) of a second building when two (2) buildings are parallel or within forty-five degrees (45°) of parallel of each other across an open yard or other space.

MAIN WALL. Means any exterior wall containing the primary windows of any living, family, or dining room and may contain other windows serving other rooms.

PRIMARY WINDOW. Means any window of a living, dining or family room, which has a sill height of sixty (60) inches or less above the floor.

(c) Location of dwellings on lot. Apartment dwellings may not be required to front on a public street, provided, however, the main entrance to any apartment dwelling shall be not more than three hundred (300) feet from a public street.

(d) Location of dwelling units in an apartment building. Dwelling units in apartment buildings shall be located in accordance with the following:

(1) No floor of a dwelling unit shall be located below the approved finished grade.

(2) No dwelling unit shall be located on a floor having an elevation more than twelve (12) feet above the elevation of the main entrance.

(Ord. 3443, approved by voters 11-7-95)

§ 1151.33 YARDS FOR ACCESSORY BUILDING AND USES IN AN R-A DISTRICT.

Any accessory use permitted in an R-A Apartment District may either occupy a part of the main building, occupy a separate accessory structure or constitute an accessory land use.

(a) Location of parking areas. The site shall be designed so that the accessory parking area shall be located not more than two hundred (200) feet from the building entrance of
the dwelling units to be served, the distance to be measured along pedestrian walks.

(b) **Use and design of yards.** The required yards, set forth in § 1151.33, shall be landscaped and maintained and shall be used only for pedestrian walks and passive recreational areas except as permitted in division (c) below and the schedule established in § 1151.34. If, however, yards between buildings are used for parking areas, driveways or playgrounds, the distances between buildings shall be increased by the dimensions of such intermediary facilities.

(c) **Distances from accessory uses to buildings and streets.** The minimum distances from any accessory uses such as storage garages, parking areas, driveways, walks and recreation areas to certain walls of main buildings, streets and boundaries of the development area shall be not less than set forth in the schedule established in § 1151.34.

(d) **Trash Receptacles.** All trash receptacles shall be located wholly within a main building or in an approved enclosure structure. Exterior trash enclosures shall meet the following requirements except as otherwise approved by the Planning Commission and approved by Council:

1. The enclosure shall be six (6) feet in height with solid masonry walls on three (3) sides with a solid gate or door on the fourth side.

2. The main building may be one (1) wall, but the trash receptacle shall be a minimum of six (6) feet away from the building and steel bollards shall be installed to maintain the minimum six (6) foot receptacle/building separation. The trash receptacle shall not be located under a building overhang.

3. Separate enclosures shall be located at least six (6) feet from the main building with minimum setbacks from property lines equal to the setback requirements for loading dock areas.

4. Enclosures shall be designed to be compatible in design and materials as the main building.

5. Where enclosures are located adjacent to residential areas or in other visually sensitive areas, as determined by the Planning Commission, trash enclosures shall be further screened with a landscaped buffer as approved by the Planning Commission.

(e) **Design of Parking Lots.** Parking areas shall be appropriately designed and developed as required by the Planning Commission with landscaped areas, pedestrian walkways, and planted islands reasonably distributed throughout so as to interrupt the expanse of paved areas. The parking areas shall meet the requirements of § 1183.15.

(Ord. 3443, approved by voters 11-7-95; Am. Ord. 3824, passed 8-1-00)
§ 1151.34 SCHEDULE OF MINIMUM DISTANCES FOR ACCESSORY USES IN R-A DISTRICTS.

<table>
<thead>
<tr>
<th>ACCESSORY BUILDING OR USE</th>
<th>TO WALL OF MAIN BUILDINGS (in feet)</th>
<th>TO STREETS (in feet)</th>
<th>TO SIDE AND REAR LOT LINES ABUTTING DISTRICT (in feet):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Main</td>
<td>End</td>
<td>Public</td>
</tr>
<tr>
<td>Accessory buildings, storage garage</td>
<td>40 a</td>
<td>20 a</td>
<td>b</td>
</tr>
<tr>
<td>Parking area</td>
<td>40</td>
<td>10</td>
<td>b</td>
</tr>
<tr>
<td>Driveway d</td>
<td>40</td>
<td>10</td>
<td>---</td>
</tr>
<tr>
<td>Project walk</td>
<td>30 e</td>
<td>10</td>
<td>f</td>
</tr>
<tr>
<td>Areas for active recreation</td>
<td>40</td>
<td>20</td>
<td>30 b</td>
</tr>
</tbody>
</table>

Notes to schedule:

a Garages may be in basement ground floor if required windows are not obstructed.

b Not permitted in required front yard.

c Not permitted in the required building setback from the project boundary line set forth in § 1151.32(a), but in no case shall be located closer to an abutting residential lot line than the required rear yard depth set forth in the schedule established in § 1151.24 for the district in which the abutting residential lot is located.

d If the driveway is designed as a part of the building entrance, it may be less than the distance set forth in this schedule for that section near the entrance.

e A project walk may be less than 30 feet, but not less than five feet, from a main wall if all windows have sills at least eight feet above the finished grade.

f Not applicable.
§ 1151.39  PROJECTIONS INTO YARDS.

A projection is that part or feature of a building which extends or projects outside of the enclosing walls. Projections shall not be allowed if they would interfere with the reception of sun, light, air and the use of adjacent lots as follows:

(a)  **Features of buildings.** Building features may project into a required front, side or rear yard of a dwelling, measured from the established yard line, as follows:

(1)  **Architectural.** An architectural feature, such as a belt course, balcony, bay window, cornice, gutter, chimney or solid overhang, may project into a required front, rear, and side yard for a distance of four feet but all parts of any projection shall not be less than three horizontal feet from any side lot line.

(2)  **Entrances.** An entrance feature, such as a platform, landing, steps, terrace or other similar features, may extend eight feet into a front or rear yard and three feet into a side yard; however, such feature may not extend above the first-floor level of a building.

(3)  **Outside stairs.** Outside stairs to be used as a fire escape or an enclosed stairway and the landing leading to the second floor of a structure may project four feet into a required side yard if approved by the Planning Commission.

(4)  **Enclosures.** Enclosed shelters, an enclosed entry or porch shall not project into any required front yard.

(5)  **Unenclosed shelters or device.** An unenclosed or louvered shelter or shading device, such as an entrance hood, an open but roofed porch or an awning may project six feet into a required front yard and required rear yard and three feet into a required side yard.

(6)  **Open shading device.** An open shading device, such as a trellis, louver, or a similar device having more than 75% of the surface open may project into a required side yard, but no part of any shading device shall be located within five feet of any side lot line.

(7)  **Carports, breezeways.** Carports, breezeways, courtyards or other similar
structures, or parts thereof, shall not project into any required yards.

(b) **Lanscaping.** Landscape features, such as hedges, trees and shrubs, and yard structures such as trellises and outdoor fireplaces may be permitted in a required front, side or rear yard as follows:

1. In front yards of interior lots, hedges shall be permitted along a side lot line in a required front yard to a height of not more than 3½ feet above the existing grade.

2. In front yards of corner lots, landscape features within a triangle formed between points on front and side lot lines within 20 feet from their intersection shall be maintained so as not to obstruct sight lines within a vertical height of 2½ to 6 feet above curb level.

3. Tool sheds and other enclosed structures shall conform to the yard regulations for accessory uses set forth in §§ 1151.25 or 1151.33 for the district in which the lot is located.

4. Driveways to garages or parking areas shall be permitted in any required yard on a subdivided lot that is more than 10 feet wide.

5. Other structures, floodlights, searchlights, loud speakers or similar structures shall not be erected or used in a residential district in any manner that will cause hazards or annoyance to the public generally or to the occupants of the neighboring property.

6. A building permit shall be required for pools 1½ feet or more in depth and all accessory buildings.

(Ord. 3443, approved by voters 11-7-95; Am. Ord. 3490, passed 3-5-96; Am. Ord. 3503, passed 5-21-96; Am. Ord. 3943, passed 3-19-02)

§ 1151.40 [RESERVED].

§ 1151.41 HEIGHT REGULATIONS.

All areas in residential districts shall be in a Class One Height District unless otherwise shown on the Zone Map.

(Ord. 3443, approved by voters 11-7-95)
§§ 1151.42 - 1151.50  [RESERVED].

§ 1151.51  APPROVAL OF PLANS.

In addition to the regulations contained in this Chapter, residential subdivisions and development plans shall be submitted, reviewed, and considered for approval according to the following procedures:

(a)  Building permits for existing lots or for approved developments. Building permits for existing lots or developments with approved development plans shall be submitted, reviewed and considered for approval in accordance with the provisions of Chapter 1191.

(b)  Residential subdivisions. Plans for subdivisions of land shall be submitted, reviewed and considered for approval in accordance with the provisions contained in Title Three - Land Planning and Subdivision Regulations.

(c)  Planned Development Area. Development area plans for a Planned Development Area shall be submitted, reviewed and considered for approval in accordance with the provisions of Chapter 1179, Chapter 1195 and the applicable provisions of Title Three - Land Planning and Subdivision Regulations.

(d)  Apartment dwellings. The development plans required shall be determined by the type of development proposed:

(1)  Development on lots abutting existing streets. Development plans shall be submitted to and approved by the Planning Commission in accordance with the provisions set forth in Chapter 1193 of this Code for each development of apartment dwellings located on a lot abutting an existing street and not involving the construction of a new street.

(2)  Development involving a new street. Development area plans shall be submitted, reviewed and considered for approval in accordance with the provisions of Chapter 1193 and the applicable provisions of Title Three - Land Planning and Subdivision Regulations.

(Ord. 3443, approved by voters 11-7-95; Am. Ord. 3582, passed 8-5-97)

CHAPTER 1153:  COMMUNITY FACILITIES DISTRICT

::"American Legal Publishing Corporation"
§ 1153.01 INTENT.

COMMUNITY FACILITIES, as used throughout this Zoning Code, means facilities classified as main and accessory buildings and uses in the schedule, § 1153.02. Community Facilities Districts and regulations are established in order to achieve, among others, the following purposes:

(a) To provide a proper zoning classification for governmental, civic, welfare and recreational facilities in proper locations and extent so as to promote the general safety,
convenience, comfort and welfare;

(b) To protect such public and semipublic facilities and institutions from the encroachment of certain other uses and to make such uses compatible with adjoining residential uses; and

(c) To provide an environment for the proper functioning of public facilities in relation to the Master Plan and plans for community facilities.

(64 Code, § 1153.01) (Ord. 2042, passed 12-20-72)

§ 1153.02 USE REGULATIONS.

(a) Buildings and land shall be used and buildings shall be designed, erected, altered, moved or maintained in a Community Facilities District only for uses set forth in the following schedule:

<table>
<thead>
<tr>
<th>District</th>
<th>Main Buildings and Uses</th>
<th>Accessory Buildings and Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Uses permitted and regulated in an R-20 District</td>
<td>Parking areas as required and regulated in Chapter 1183.</td>
</tr>
<tr>
<td></td>
<td>Class A: Public and private elementary schools and religious facilities; public playgrounds and parks; recreation areas, swimming pools, stables and buildings of a Home Association.</td>
<td>Residence for custodians or guards, parish houses, rectories, monasteries and convents</td>
</tr>
<tr>
<td></td>
<td>Class B: Governmental administration; libraries; museums; indoor recreation facilities; private clubs and lodges; police and fire stations; nursery schools; child day care in accordance with § 1153.16.</td>
<td>Maintenance and heating facilities.</td>
</tr>
<tr>
<td>CF</td>
<td>Class C: parks, parkways, wild life and nature preserves; public and private golf courses; cemeteries.</td>
<td>Signs as regulated in Chapter 1187.</td>
</tr>
</tbody>
</table>
## SCHEDULE OF PERMITTED BUILDINGS AND USES

<table>
<thead>
<tr>
<th>District</th>
<th>Main Buildings and Uses</th>
<th>Accessory Buildings and Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class D:</td>
<td>athletic fields; polo</td>
<td></td>
</tr>
<tr>
<td></td>
<td>fields; stadia, public</td>
<td></td>
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<tr>
<td></td>
<td>or membership pools;</td>
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<tr>
<td></td>
<td>riding academies and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>public stables; picnic</td>
<td></td>
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<tr>
<td></td>
<td>areas; group camps; youth</td>
<td></td>
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<tr>
<td></td>
<td>hostels.</td>
<td></td>
</tr>
<tr>
<td>Class E:</td>
<td>public and private high</td>
<td></td>
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<tr>
<td></td>
<td>schools; colleges and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>universities; welfare</td>
<td></td>
</tr>
<tr>
<td></td>
<td>institutions; training</td>
<td></td>
</tr>
<tr>
<td></td>
<td>schools; hospitals.</td>
<td></td>
</tr>
</tbody>
</table>

(b) Any other community facility use not listed above or in any other district and determined as similar to one of the above classes of community facilities in accordance with the standards of § 1191.10 are permitted.

(c) Open use, in Community Facilities Districts, means landscaped, sodded, paved or similarly prepared or equipped areas for open uses, such as athletic or court games, picnicking or leisure activities without major structures extending above grade.

(’64 Code, § 1153.02) (Ord. 2042, passed 12-20-72; Am. Ord. 3195, passed 2-4-92)

§§ 1153.03 - 1153.10 [RESERVED].

§ 1153.11 CONDITIONAL USES.

The following conditional uses shall be permitted in accordance with the provisions of § 1191.10 when the Planning Commission finds that the following conditions are satisfied:

Permanent floodlighting and other permanent exterior lighting of playfields, buildings, bulletin boards and parking areas shall be located and designed so as to shield the light source from adjoining residences and shall be extinguished or reduced in intensity during late evening and night hours as may be required; additional conditions may be imposed by the Commission upon the recommendations of the Safety Director.

(’64 Code, § 1153.11) (Ord. 2042, passed 12-20-72)
§§ 1153.12 - 1153.15 [RESERVED].

§ 1153.16 REGULATIONS FOR CHILD DAY CARE.

Child Day Care facilities shall comply with the following regulations:

(a) Child Day Care shall be provided by Child Day Care Center as defined in the Ohio Revised Code. The Child Day Care Center shall be licensed by the state, other applicable governmental agencies, and meet the requirements of the state and those agencies.

(b) The Child Day Care Center shall be located on an arterial or a collector street.

(c) Minimum lot area shall be two (2) acres.

(d) Minimum building front yard setback shall be one hundred (100) feet.

(e) A Child Day Care Center located in a multiple use building shall provide an entrance completely separate from other uses in the building. Designated parking for the exclusive use of the Child Day Care Center shall be located immediately adjacent to the entrance.

(f) The Child Day Care Center shall comply with other applicable regulations for the zoning district in which it is located.

(g) Other planning criteria and conditions appropriate to each application may be established by the Planning Commission.

(’64 Code, § 1153.16) (Ord. 3195, passed 2-4-92)

§§ 1153.17 - 1153.20 [RESERVED].

§ 1153.21 LOT REGULATIONS.

Buildings and uses permitted in a Community Facilities District shall be located only on lots that comply with the following regulations:
(a) **Minimum lot area.** The minimum lot area for each permitted use shall be not less than the area required to accommodate the main and accessory buildings and uses, on-site circulation, required parking and loading facilities and required yards, provided that:

1. Class A community facilities shall have a lot area of not less than four (4) acres, except religious facilities and accessory uses on corner lots, not in conjunction with a school, shall then have a lot area of not less than two (2) acres.
2. Class D community facilities shall have a lot area of not less than ten (10) acres.
3. Class E community facilities shall have a lot area of not less than twenty (20) acres.

(b) **Minimum lot width.** The minimum width of any lot used for a permitted community facility shall be not less than the width necessary to accommodate the building or use and maintain the required side yards.

(64 Code, § 1153.21) (Ord. 2197, passed 2-3-76)

**§§ 1153.22 - 1153.30 [RESERVED].**

**§ 1153.31 PLANNING CRITERIA.**

Buildings and land shall be used and buildings shall be designed, erected, altered, moved and maintained within Community Facilities Districts only in accordance with the following regulations:

(a) **Building setback.** The minimum setback of any building or open use from the existing or planned right-of-way of a public street shall be related to the type of street on which it abuts as indicated on the Master Plan and shall be not less than the distance set forth in the schedule, § 1153.32.

(b) **Minimum yard area.** The minimum unencumbered yard area equal to the area of the lot not covered by buildings, vehicular drives and parking areas shall be not less than the percent of the area of the lot set forth in the schedule, § 1153.32, nor less than the percent of the area of the lot indicated for the permitted use in districts where it is permitted as a conditional use.

(c) **Side and rear yards.** The minimum dimension of the side and rear yard of
community facility buildings or open uses shall be related to the district on which it abuts and shall be not less than the distance set forth in the schedule, § 1153.32.

(d) **Trash Receptacles.** All trash receptacles shall be located wholly within a main building or in an approved enclosure structure. Exterior trash enclosures shall meet the following requirements except as otherwise approved by the Planning Commission and approved by Council:

1. The enclosure shall be six (6) feet in height with solid masonry walls on three (3) sides with a solid gate or door on the fourth side.

2. The main building may be one (1) wall, but the trash receptacle shall be a minimum of six (6) feet away from the building and steel bollards shall be installed to maintain the minimum six (6) foot receptacle/building separation. The trash receptacle shall not be located under a building overhang.

3. Separate enclosures shall be located at least six (6) feet from the main building with minimum setbacks from property lines equal to the setback requirements for loading dock areas.

4. Enclosures shall be designed to be compatible in design and materials as the main building.

5. Where enclosures are located adjacent to residential areas or in other visually sensitive areas, as determined by the Planning Commission, trash enclosures shall be further screened with a landscaped buffer as approved by the Planning Commission.

(e) **Design of Parking Lots.** Parking areas shall be appropriately designed and developed as required by the Planning Commission with landscaped areas, pedestrian walkways, and planted islands reasonably distributed throughout so as to interrupt the expanse of paved areas. The parking areas shall meet the requirements for § 1183.15 ('64 Code, § 1153.31) (Ord. 2042, passed 12-20-72; Am. Ord. 3741, passed 7-20-99; Am. Ord. 3824, passed 8-1-00)

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### § 1153.32 SCHEDULE OF PLANNING CRITERIA.

<table>
<thead>
<tr>
<th>Class of Community Facility</th>
<th>Setback in Feet From Minimum a Yard Area (Percent)</th>
<th>Feet of Side and Rear Yards Abutting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arterial</td>
<td>Collector and Local</td>
<td>Feet of Side and Rear Yards Abutting</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R-60, R-40, R-20 Districts</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R-8 and Other Districts</td>
</tr>
</tbody>
</table>
Brecksville, Ohio Code of Ordinances

<table>
<thead>
<tr>
<th>Class of Community Facility</th>
<th>Setback in Feet From</th>
<th>Minimum a Yard Area (Percent)</th>
<th>Feet of Side and Rear Yards Abutting</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Arterial</td>
<td>Collector and Local</td>
<td>R-60, R-40, R-20 Districts</td>
</tr>
<tr>
<td>Class A buildings open uses</td>
<td>100</td>
<td>75</td>
<td>60</td>
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<td>100</td>
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<tr>
<td>Class B buildings open uses</td>
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<td></td>
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</tr>
<tr>
<td>Class C buildings open uses</td>
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<td>100</td>
<td>90</td>
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<tr>
<td></td>
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<tr>
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<tr>
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<td>85</td>
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</table>

\(^a\)Includes open uses by definition, § 1153.31(b).

\(^b\)Except for religious facilities, including parish houses, monasteries and convents on corner lots, not in conjunction with a school, then shall have a minimum side yard setback of 50 feet.

(64 Code, § 1153.32) (Ord. 2197, passed 2-3-76)

§§ 1153.33 - 1153.40 [RESERVED].
§ 1153.41 HEIGHT REGULATIONS.

(a) All Class A, B, C and D community facilities shall be in a Class One Height District.

(b) All Class E community facilities shall be in a Class Two Height District.

(c) Height districts for community facilities may be otherwise shown on the Zone Map.

(64 Code, § 1153.41) (Ord. 2042, passed 12-20-72)

§§ 1153.42 - 1153.50 [RESERVED].

§ 1153.51 APPROVAL OF PLANS AND DESIGN STANDARDS.

Development area plans of proposed public buildings and land improvements shall be submitted according to the procedures set forth in Chapter 1195. Criteria for reviewing a development plan for a public facility shall be:

(a) The proposed building or use shall be located properly in relation to these criteria, to the duly adopted Master Plan, Renewal Plan or Community Facilities Plan of the city, or an area plan of the neighborhood which includes the site of the proposed public facility;

(b) The proposed public facility building and use shall have direct vehicular access to major or minor arterial streets as shown on a duly adopted Master Plan. Elementary schools may, however, be located on a collector street; and

(c) The location, design and operation of such main and accessory public facility buildings and use shall not adversely affect the surrounding residential neighborhood.

After approval of the preliminary plan, final plans shall be prepared and submitted to the Planning Commission in accord with procedures set forth in this Zoning Code. A building permit shall not be issued until such plans are approved by the Commission and confirmed by Council. In addition to the above requirements, appropriate conditions applying to the particular situation may also be specified in the approval and permit.
CHAPTER 1155: BUSINESS DISTRICTS

Section

1155.01 Intent
1155.02 Use regulations
1155.03 Use regulations; Office Building Districts
1155.04 Use regulations; Local Business Districts
1155.05 Use regulations; Shopping Center Districts
1155.06 Use regulations; Commercial Service Districts
1155.07 Use regulations; Motor Service Districts
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1155.21 Lot regulations
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1155.31 Planning criteria
1155.32 Schedule of planning criteria
1155.33 Business Planned Development Area
1155.34 - 1155.40 [Reserved]
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1155.42 - 1155.50 [Reserved]
1155.51 Approval of plans

Cross-reference:

Automotive Parking Districts, see Ch. 1158
Classes One and Two Height Districts, see §§ 1181.11 and 1181.13
Conditions for variance and exceptions, see §§ 1197.10 and 1197.11
Industrial districts, see Ch. 1157
Lot definitions and measurements, see § 1113.14
Nonconforming uses and lots, see Ch. 1173
Parking and loading facilities, see Ch. 1183
Prohibited uses, see Ch. 1189
§ 1155.01 INTENT.

Office Building, Local Business, Shopping Center, Commercial Service and Motor Service Business Districts are hereby established in order to achieve, among others, the following purposes:

(a) To provide in appropriate and convenient locations, zoning districts of sufficient size to serve and to promote the economic development of the community, more specifically:

(b) To provide Office Building Districts which, by restricting the types of business, office and institutional uses, do not create large parking needs or generate large volumes of traffic;

(c) To provide Local Business Districts to serve the needs for convenience goods in proximity to the immediate neighborhood, and which do not generate large volumes of traffic;

(d) To provide Shopping Center Districts of sufficient size and in highly accessible locations to encourage the development of planned, integrated shopping centers within the community;

(e) To provide Commercial Service Districts in which business uses may locate which may require larger land areas, generate large traffic volumes and/or which may not be permitted in the other business districts of this Zoning Code;

(f) To provide Motor Service Districts in convenient areas directly related to the freeway interchanges to serve the needs of through and local motorists;

(g) To protect adjacent residential and commercial properties by restricting the type of uses, particularly at the common boundaries, which would create hazards, noise, odors or other objectionable influences;

(h) To provide for landscaped settings for such developments in order to protect adjacent residential areas and areas of less intense usage;

(i) To relieve traffic congestion on the streets by requiring off-street parking and loading facilities; and

(j) To promote the desirable and beneficial use of the land based upon the Master
§ 1155.02 USE REGULATIONS.

Buildings and land shall be used and buildings shall be designed, erected, altered, moved or maintained in Office Building, Local Business, Shopping Center, Commercial Service and Motor Service Districts only for the uses set forth for each respective district in the schedule and regulation of this chapter.

(a) Existing dwellings within any Business District shall be construed as a nonconforming use, but may be continued, extended, altered, moved and maintained subject to all lots, setbacks and planning criteria and height regulations of the nearest residential district.

(b) A lot occupied by a one or two-family dwelling shall not be occupied by any other main use permitted in any business district or accessory use other than accessory to a dwelling.

(c) Any building designed and constructed as a one or two-family residence and existing within any business district on the effective date of this section (Ordinance 2042, passed December 20, 1972) shall not be occupied, in whole or in part, by any other use unless the entire building is redesigned and reconstructed to express and serve the proposed use in regard to exterior design, the building plan and sites plan and must be in accordance with all requirements of the Building Code pertaining to commercial structures.

§ 1155.03 USE REGULATIONS; OFFICE BUILDING DISTRICTS.

(a) Main buildings and uses permitted.

(1) R-60 buildings and uses. All buildings and uses of the types permitted and regulated in R-60 Residential Districts shall be permitted in Office Building Districts, except residential dwellings and uses of all types, shall be prohibited.

(2) Office buildings. The following types of office buildings shall be permitted in Office Building Districts.

A. Administrative, executive, financial, governmental, professional,
including medical laboratories, clinics, hospitals, public utility and real estate offices;

B. Sales offices, provided only samples are displayed or stored in the building, and provided no goods shall be stored in or distributed therefrom

(3) **Assembly halls.** Assembly halls, nonresidential, religious, educational or civic institutions shall be permitted including, if deemed desirable, a residence for a custodian or caretaker.

(4) **Mortuaries.** Mortuaries, including the residence of the owner or manager and his immediate family are permitted if it is determined by the Planning Commission that such use is compatible with the surrounding area upon approval in accordance with the procedures and criteria of Chapter 1193.

(b) **Similar main uses permitted.** Any other office or use not listed above or in any subsequent classification may be permitted if determined by the Planning Commission to be a use similar to any permitted use in accordance with the procedures set forth in § 1191.11.

(c) **Accessory uses permitted.** Any accessory use which is incident to a permitted main use shall be permitted provided it is planned and developed integrally with the main building, and with adjacent buildings and that it has no injurious effects on the adjoining residential districts, such as:

1. Storage garages, off-street parking areas for employees and customers as required and regulated in Chapter 1183.

2. Maintenance and storage facilities, if provided, within the main building or buildings and employee lunch rooms.

3. Construction signs, professional nameplates and building identification signs, as permitted and regulated in § 1187.13.

4. Child day care provided exclusively for children of employees.

(d) **Conditional uses permitted.** The following conditional uses may be permitted as an option of the city to grant by conditional use permit in accordance with the provisions of § 1191.10 after recommendation of the Planning Commission and approval of Council:

1. **Child day care.** In accordance with the requirements of § 1153.16, Regulations for Child Day Care.

2. **Retail stores, services.** Retail stores and services conducted in wholly enclosed, historic buildings (defined as a building at least one hundred (100) years old) offering convenience goods and services to the following extent shall be permitted:
A. Retail sales.
   1. Books and gifts.
   2. Wearing apparel.
   3. Flowers.

B. Services.
   1. Interior decorating.
   2. Tailors provided no work shall be done on the premises for retail outlets elsewhere.
   3. Photographic and art studios.

Any retail stores, services permitted as a conditional use shall be non-transferable and shall become null and void if the user to whom the permit is granted ceases to operate the business for a six (6)-month period.

(‘64 Code, § 1155.03) (Ord. 2042, passed 12-20-72; Am. Ord. 3195, passed 2-4-92; Am. Ord. 4852, passed 6-17-14; Am. Ord. 4915, passed 3-17-15)

§ 1155.04 USE REGULATIONS; LOCAL BUSINESS DISTRICTS.

(a) Main buildings and uses permitted.

   (1) Office building district uses. Building and uses permitted in Office Building Districts shall be permitted in Local Business Districts except mortuaries and conditional uses allowed under § 1155.03(d) shall be prohibited.

   (2) Retail stores, services. Retail stores and services conducted in wholly enclosed buildings offering convenience goods and services to the following extent shall be permitted:

   A. Retail sales.
      1. All food and beverages.
      2. Serving of food and all beverages.
3. Drugs, sundries, books and gifts.
4. Household hardware, supplies and appliances, radio and television.
5. Wearing apparel.
6. Flowers and floral supplies and equipment.
7. Sporting goods, musical instruments.

B. Services.
1. Personal services, such as beauty and barber shops and interior decorating.
2. Laundry agencies and laundromats, tailors, pressing and cleaning agencies, shoe repair, television, radio and small appliance repair, provided no work shall be done on the premises for retail outlets elsewhere.
3. Automobile service stations as defined by § 1113.04 in the Subdivision Regulations, but not including gasoline stations.
4. Photographic and art studios.

(3) Retail sales in open yards. The sale of gasoline and oil.

(b) Similar main uses permitted. Any other retail neighborhood store, shop or service not listed above or in any subsequent use classification, and determined as similar by the Planning Commission according to the standards set forth in § 1191.11 shall be permitted.

(c) Accessory uses permitted. Any accessory use such as storage of goods or processing operations which are clearly incident to conducting a retail business or service establishment permitted as a main use shall be permitted, provided such a use is within a wholly enclosed building and has no injurious effect on adjoining residential districts.

(1) Accessory off-street parking and loading facilities as required and regulated in Chapter 1183.

(2) Signs as permitted and regulated in § 1187.13.

(64 Code, § 1155.04) (Ord. 2042, passed 12-20-72; Am. Ord. 3195, passed 2-4-92; Am. Ord. 4853, passed 6-17-14)
§ 1155.05 USE REGULATIONS; SHOPPING CENTER DISTRICTS.

(a) Main buildings and uses permitted.

(1) Local business district uses. All buildings and uses as permitted in Local Business Districts shall be permitted in Shopping Center Districts, except retail sales in open yards shall be prohibited.

(2) Retail stores, services, amusements. Additional retail stores and amusement and recreational uses conducted in wholly enclosed buildings offering convenience and shopping goods and services to the following extent:

A. Retail sales.
   1. State liquor stores.
   2. All general merchandise and furniture.
   3. Business supplies and equipment.

B. Amusements and recreation. Amusement and recreational uses within wholly enclosed and soundproofed buildings such as:
   1. Assembly and meeting halls.
   2. Bowling alleys and billiard halls.
   3. Theaters.

(b) Similar main uses permitted. Any other retail store, service or office or use not listed above or in any other use classification and determined as similar by the Planning Commission according to the standards set forth in § 1191.11 shall be permitted.

(c) Accessory uses permitted. Any accessory use such as enclosed storage of goods or processing which is clearly incidental to conducting a retail business or service establishment which is permitted as a main use shall be permitted.

   (1) Accessory off-street parking and loading facilities as required and regulated in Chapter 1183.

   (2) Signs as permitted and regulated in § 1187.13.

(‘64 Code, § 1155.05) (Ord. 2042, passed 12-20-72)
§ 1155.06 USE REGULATIONS; COMMERCIAL SERVICE DISTRICTS.

(a) Main building and uses permitted.

(1) Retail sales, services in buildings. Retail sales and service uses conducted in wholly enclosed buildings shall be permitted in Commercial Service Districts including:

A. Lumber yards, building materials and supply, hardware, tools, appliances and electrical supplies.

B. Garden supplies and equipment, garden furniture and nursery stock.

C. Motor vehicle sales and services, sale of tires, parts and accessories, repair and service garages; auto washes, service stations and gasoline stations as defined by § 1113.04 of the Subdivision Regulations.

D. Rental of automobiles, trucks and trailers, provided that all vehicles, equipment and supplies must be stored indoors.

E. Pet shops and veterinarian hospitals.

F. Sale of sport equipment, motorcycles, boats and outboard motors, provided that all merchandise, equipment and supplies must be stored indoors.

G. Shops for artists and craftsmen and sale of art and craft objects.

H. Woodworking, plumbing, heating, electrical and ornamental iron shops.

I. Laundries and dry cleaners.

J. Photographic developing, blueprinting, letter job and newspaper printing, telephone exchanges, transformer stations and public utility garages.

(2) Retail sales and service uses in open yards.

A. Sale and storage of motor vehicles provided that the operation is in conjunction with a new motor vehicle agency on the same or adjacent lot and that all vehicles shall be stored and displayed in wholly enclosed structures shall be permitted, except that not more than five new vehicles may be displayed in a required side yard, behind the building setback line, between the hours of 9:00 a.m. and 9:00 p.m. provided they are screened from the street by a substantially solid landscaped planting or hedge at least three feet in height.
B. Garden equipment and supplies, garden furniture and nursery stock shall be permitted, provided:
   1. The operation is in conjunction with a store building or retail greenhouse on the same lot; and
   2. No goods are sold, stored or displayed in a required front or side yard.

C. Automotive, sale of gasoline, oil and accessories, motor vehicles and rental trailers shall be permitted, provided no goods, trailer or vehicle shall be sold, rented, stored or displayed in a required front or side yard and all trailers and vehicles shall be screened from any street or any abutting residential district by a substantially solid fence or landscaped hedge not less than five feet in height, except that not more than five such new trailers or vehicles may be (see division (a)(2)A. hereof).

   (b) Similar main uses permitted. Any other commercial service establishment not listed in the above classification and determined as similar by the Planning Commission in accordance with the standards set forth in § 1191.11 shall be permitted.

   (c) Accessory uses permitted. Any accessory use such as storage of goods or processing operations which are clearly incident to conducting a commercial service establishment permitted as a main use shall be permitted, provided such a use is within a wholly enclosed building.

      (1) Accessory off-street parking and loading facilities as regulated in Chapter 1183.

      (2) Signs as permitted and regulated in § 1187.13.

('64 Code, § 1155.06) (Ord. 2042, passed 12-20-72)

§ 1155.07 USE REGULATIONS; MOTOR SERVICE DISTRICTS.

   (a) Main buildings and uses permitted. The following main buildings and uses shall be permitted in Motor Service Districts:

      (1) Full service hotels that include a minimum of 10% of the total hotel floor area devoted to lounges, restaurants that are open to the public, and/or meeting rooms, exclusive of lobbies or registration areas.

      (2) The serving of food and all beverages in wholly enclosed buildings. Drive
thru windows or facilities are not permitted.

(4) Gasoline stations as defined by § 1113.04 of the Subdivision Regulations. A gasoline station shall be permitted to have the following ancillary uses when such uses are located on the same lot as the gasoline station:

A. Retail sales of convenience items such as: groceries, automotive supplies and prepared foods provided that the building floor area devoted to retail sales shall not exceed three thousand (3,000) square feet. Drive thru windows or facilities are not permitted.

B. Car wash facility.

(b) Similar main uses. Any other motor service establishment or use not listed above or in any other use classification and determined as similar by the Planning Commission shall be permitted according to the standards set forth in § 1191.11.

(c) Accessory uses permitted. Any accessory use such as storage of goods or processing which is clearly incidental to conducting a motor service establishment which is permitted as a main use shall be permitted.

(1) Accessory off-street parking and loading facilities as required and regulated in Chapter 1183.

(2) Signs as permitted and regulated in § 1187.13.

('64 Code, § 1155.07) (Ord. 2042, passed 12-20-72; Am. Ord. 3741, passed 7-20-99)

§§ 1155.08 - 1155.20 [RESERVED].

§ 1155.21 LOT REGULATIONS.

Buildings and uses permitted in any business district shall be located only on a lot that complies with the following regulations.

(a) Hotels shall have a lot area of not less than one thousand (1,000) square feet for each rental or sleeping unit or equivalent use, or six (6) acres of total side area, whichever is the greater shall govern.

(b) Gasoline stations and service stations shall have a lot area of not less than forty thousand (40,000) square feet.
(c) The minimum lot width for any lot within any business district having direct access to an arterial street as indicated on the Master Plan shall be not less than one hundred (100) feet provided:

(1) A lot of less width may be developed in Shopping Center Districts when such lots also abut a rear alley, common parking area or service road; and

(2) Gasoline service stations shall have not less than two hundred (200) feet of frontage on each abutting street.

(‘64 Code, § 1155.21) (Ord. 2550, passed 8-18-81)

§§ 1155.22 - 1155.30 [RESERVED].

§ 1155.31 PLANNING CRITERIA.

All buildings and land shall be used and all buildings shall be designed, erected, altered, moved and maintained within any business district in accordance with the following regulations and those in § 1155.32.

(a) Minimum yard area. The minimum area of the landscaped yards of any development, exclusive of area covered by buildings, open uses, parking areas, loading areas and driveways, shall be not less than the percent set forth in the schedule, § 1155.32. The Planning Commission may require that such yard areas be landscaped with ground cover, shrubs, trees and maintained in a condition satisfactory to the city.

(b) Front yards. All buildings and parking areas shall be set back from the planned right-of-way of any abutting street not less than the distance set forth in the schedule, § 1155.32, or as otherwise established on the Zone Map.

(c) Side yards. Each lot or separate development shall have at least one side of not less than twelve (12) feet in width unless the on-site circulation, parking and loading are coordinated with adjoining developments and set forth in a joint agreement. Where buildings are not built along the property line in accordance with such agreement, the minimum yard shall be twelve (12) feet.

(d) Rear yards. Each lot shall have a rear yard not less than forty (40) feet deep unless provisions for on-site circulation, parking and loading facilities are coordinated with adjoining business development through a joint agreement.
(e) **Yards abutting residential districts.** The minimum dimension of side or rear yards shall be not less than the distance set forth in the schedule, § 1155.32, where any business development abuts a residential district.

(f) **Screening of business areas.** The Planning Commission may require that all business buildings, uses, parking areas, loading facilities and driveways be screened from adjacent industrial, community facility and residential districts by a substantially solid fence, hedge and/or other landscaping at least twenty (20) feet wide and not less than five and one-half (5½) feet in height.

(g) **Trash Receptacles.** All trash receptacles shall be located wholly within a main building or in an approved enclosure structure. Exterior trash enclosures shall meet the following requirements except as otherwise approved by the Planning Commission and approved by Council:

1. The enclosure shall be six (6) feet in height with solid masonry walls on three (3) sides with a solid gate or door on the fourth side.

2. The main building may be one (1) wall, but the trash receptacle shall be a minimum of six (6) feet away from the building and steel bollards shall be installed to maintain the minimum six (6) foot receptacle/building separation. The trash receptacle shall not be located under a building overhang.

3. Separate enclosures shall be located at least six (6) feet from the main building with minimum setbacks from property lines equal to the setback requirements for loading dock areas.

4. Enclosures shall be designed to be compatible in design and materials as the main building.

5. Where enclosures are located adjacent to residential areas or in other visually sensitive areas, as determined by the Planning Commission, trash enclosures shall be further screened with a landscaped buffer as approved by the Planning Commission.

(h) **Design of Parking Lots.** Parking areas shall be appropriately designed and developed as required by the Planning Commission with landscaped areas, pedestrian walkways, and planted islands reasonably distributed throughout so as to interrupt the expanse of paved areas. The parking areas shall meet the requirements of § 1183.15

(64 Code, § 1155.31) (Ord. 2550, passed 8-18-81; Am. Ord. 3741, passed 7-20-99; Am. Ord. 3824, passed 8-1-00)
§ 1155.32 SCHEDULE OF PLANNING CRITERIA.

<table>
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<tr>
<th>District, Building or Use</th>
<th>Arterial Streets</th>
<th>Collect or Local Streets</th>
<th>Minimum Landscape Yard</th>
<th>R-60, R-40, R-20 Districts</th>
<th>R-16, R-8, R-A Districts</th>
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<td>(Percent)</td>
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\(^a\) May be reduced to 20 feet when within 500 feet of a Shopping Center District.

\(^b\) If parking is designated in front of the building, the setback shall be not less than 100 feet.
§ 1155.33 BUSINESS PLANNED DEVELOPMENT AREA.

(a) **Definition.** The Business Planned Development Area (BPDA) is a conditional development and an option of the city to grant by conditional use permit after recommendation of the Planning Commission and approval of Council for any Business Zoning District when:

1. It is determined by the Commission and Council that it is in keeping with the intent of the city's objectives, the character of the city and will enhance and complement the city; and

2. It complies with the standards and regulations for the district in which the BPDA is located, unless such standards and regulations are specifically modified as may be permitted within this chapter.

(b) **Planning and organization.** The BPDA shall be an area of a totally planned development project under one organization. This organization shall be responsible for:

1. Establishment of the overall General Development Plan, development concept, site plan, architectural theme; and

2. The preparation of overall preliminary plans and for obtaining approval of the conditional use permit and overall preliminary plans.

\(^{c}\)Provided the setback of any building and parking area within 50 feet of a residential district shall not be less than that of a dwelling in the adjacent residential district.

('64 Code, § 1155.32) (Ord. 2159, passed 5-20-75)
The final and total BPDA may be developed by a single or separate entities. Any separate entity shall be bound by the provisions of the BPDA General Development Plan.

(c) **General development plan.** The overall development shall be described in a General Development Plan which shall include the following documentation:

1. General description of the development organization.
2. General description of the development area
4. All requested deviations from the City Codes.
5. Architectural concept including considerations of: environment, style, materials, colors, compatibility with surrounding developments, and the like.
6. Signage concept including: style, colors, materials, location, sizes, and the like.
7. Landscape concept.
9. General agreement to be used with the prospective users of the buildings or units on control of: uses, aesthetics, maintenance, common areas and specifications of allowable signs.
10. Any other information required by the Planning Commission.

(d) **General development criteria.** The following general development criteria shall apply unless specifically otherwise recommended as deviations by the Commission and approved by Council.

1. The BPDA shall not be less than three acres.
2. All buildings will be considered for a Class Two height except those designed for office use which shall be considered up to a Class Three height.
3. Mixed zoning and nonconforming permitted uses may be allowed provided that the primary use is a permitted use in the business zoning district in the BPDA. The mixed zoning or nonconforming uses shall be compatible with the primary use and shall be designed and approved as a deviation with the preliminary plan for the development.
4. Standard general regulations and density for the type of development being considered will be used for each building and use.
(5) Yard requirements for the development boundaries shall be the standard yard requirements for the development zoning district. However, building and parking setbacks may be reduced to those of adjacent or similar developments in the city. Also, the Commission may develop specific setback criteria for approval with the preliminary plan.

(6) Buildings adjacent to a freeway shall be designed and landscaped to be visually attractive as seen from the highway and other contiguous points.

(7) Coordinated and/or shared parking may be permitted with adjacent private or public parking areas.

(8) Compact car parking with reduced parking space may be permitted as a deviation provided the specific development criteria and areas are approved with the preliminary site plan. The compact car parking area shall be identified with signs approved by the Commission.

(9) Lighting shall be of low intensity, white light type. The direct light rays shall be shielded from adjacent developments and streets.

(10) One development ground sign for the BPDA identification shall be permitted per street. No individual business identification shall be permitted on the BPDA sign. In addition, no individual business ground signs shall be permitted. Pole signs are expressly prohibited.

(11) Distances between driveway entrances to the development and adjacent development driveways shall be based on good development design and safe traffic flow.

(12) All electrical wiring shall be underground.

(e) Existing business developments. Existing business developments may be converted to BPDA in accordance with new BPDA procedures and regulations provided:

(1) The development is being expanded and/or extensively remodeled to conform to a General Development Plan.

(2) Several existing business developments are joining together for coordinated redevelopment under a joint organization and General Development Plan.

(f) Approval of the business development area. The BPDA shall be submitted and approved under the procedures for conditional use permits in § 1191.10 and the procedures and requirements of Chapter 1195.

(g) Amendments. The BPDA and General Development Plan Documents may be extended or amended to include changes to or additions of area, deviations, existing developments or mixed zoning uses in accordance with the original BPDA approval procedures.
(h) Conditional use permit expiration. The conditional use permit shall expire one year after approval by Council unless construction commences within that period of time. The conditional use permit shall expire five years after approval by Council whether or not construction of the development is completed in accordance with the BPDA approval plans. However, the conditional use permit may be renewed for additional like periods upon recommendation of the Planning Commission and approval of Council provided application for renewal is made prior to expiration of the permit.

(‘64 Code, § 1155.33) (Ord. 2982, approved by voters 11-7-89)

§§ 1155.34 - 1155.40 [RESERVED].

§ 1155.41 HEIGHT REGULATIONS.

Unless otherwise shown on the Zone Map, all Office Building, Local Business, Commercial Service or Motor Service Districts shall also be in a Class One Height District and all Shopping Center Districts shall be in a Class Two Height District.

(‘64 Code, § 1155.41) (Ord. 2550, passed 8-18-81)

§§ 1155.42 - 1155.50 [RESERVED].

§ 1155.51 APPROVAL OF PLANS.

Development plans shall be submitted to and approved by the Planning Commission for all proposed business developments in accordance with the requirements and procedures set forth in Chapter 1193.

(‘64 Code, § 1155.51) (Ord. 2550, passed 8-18-81)

CHAPTER 1156: PLANNED DEVELOPMENT OVERLAY
§ 1156.01 INTENT AND PURPOSE.

(a) The city contains some large areas of undeveloped land and areas for possible future redevelopment of land. Development of these lands may require special consideration due to the density of the development proposed or size of the area to be developed. The Planned Development Overlay District is hereby established in order to achieve, among others, the following objectives:

(1) To insure compatibility with surrounding development.

(2) To provide for an acceptable transition between commercial and residential land areas.

(3) To provide for a compatible mixed-use development.

(4) To comply with the objectives of the city's Master Plan.

(b) The Planned Development Overlay District may assist in accomplishing these objectives by combining the planning process with a request for change of zoning. The Planning Commission shall designate, regulate and restrict the location, design and use of buildings, structures and interior streets; promote high standards of external appearance of buildings and grounds; establish a development pattern which preserves and utilizes natural topography, scenic vistas, trees and other vegetation and prevents disruption of natural drainage patterns and minimize disruptions to flow of traffic on adjacent thoroughfares.
(c) The Planned Development District shall provide the city and the developer a method of comprehensively planned development for certain lands that could not easily be accomplished through the planning criteria established for other zoning districts.

(Ord. 3215, passed 7-7-92)

§ 1156.02 USE REGULATIONS.

A change in zoning to a Planned Development Overlay District shall be initiated by the developer. The developer may request one of the following Development Categories as permissible for a specific Planned Development Overlay District subject to Building and Zoning Code and those special provisions as may be recommended by the Planning Commission and approved by Council.

(a) Retail planned development. Permitted uses may be buildings and uses as permitted under § 1155.04 Use Regulations; Local Business Districts.

(b) Office planned development. Permitted uses may be buildings and uses as permitted under § 1155.03 Use Regulations; Office Building Districts.

(c) Industrial planned development. Permitted uses may be buildings and uses as permitted under § 1157.03 Use Regulations; Office-Laboratory District and § 1157.04 Use Regulations; Manufacturing Distribution District.

(d) Residential planned development. Permitted uses may be buildings and uses as permitted under one of the various residential district designations of § 1151.04, Schedule of Buildings and Uses. More than one residential district designation may be considered in a single Planned Development Overlay District if recommended by the Planning Commission and approved by Council.

(e) Other planned development. Other zoning districts may be considered if recommended by the Planning Commission and approved by Council.

(f) Mixed-use planned development. A combination of the preceding development categories and their corresponding uses may be considered in a single Planned Development District to form an appropriate mixed-use development.

(Ord. 3215, passed 7-7-92)
§§ 1156.03 - 1156.20 [RESERVED].

§ 1156.21 PLANNING CRITERIA.

Planning criteria specific to each requested Planned Development Overlay District including but not limited to building and parking setbacks, maximum building area, minimum unencumbered yard area, building height, parking and loading, and sign regulations shall be consistent with those as contained in the zoning district for each proposed use, unless specifically otherwise recommended as a deviation by the Planning Commission and approved by City Council.

(Ord. 3215, passed 7-7-92)

§§ 1156.22 - 1156.30 [RESERVED].

§ 1156.31 GENERAL DEVELOPMENT PLAN.

The Planned Development Overlay District shall be controlled by the General Development Plan which shall be detailed in a document containing the following information:

(a) A plat indicating the location and boundaries of the Planned Development Overlay District.

(b) Establishment of the Development Category designation for the Planned Development Overlay District as either Retail, Office, Industrial, Residential or from other zoning districts. In the case of Mixed-Use Planned Development, each separate zoning district considered shall be specifically located and boundaries established by plat.

(c) Planning criteria established for the Planned Development Overlay District pursuant to § 1156.21. In the case of Mixed-Use Planned Development, planning criteria shall be established for each zoning district considered.

(d) Guidelines for any approved phasing of development.

(e) Other planning criteria, conditions, and limitations as recommended by the
Planning Commission and approved by Council.

(f) Approved Development Plans.

(Ord. 3215, passed 7-7-92)

§§ 1156.32 [RESERVED].

§ 1156.33 PLANNING AND ORGANIZATION.

The Planned Development Overlay District shall initially be an area of a totally planned development project under one organization. This organization shall be responsible for initiating the change in zoning which shall require the following:

(a) Submission of the request for a change in zoning according to the requirements of Chapter 1199, Amending Procedures.

(b) Establishment of an overall General Development Plan.

(c) Preparation and submission of the Preliminary Development Plans according to the guidelines established by the General Development Plan and the requirements of Chapter 1195, Planned Development Areas.

(Ord. 3215, passed 7-7-92)

§ 1156.34 [RESERVED].

§ 1156.35 APPROVALS.

The request for a change in zoning to a Planned Development Overlay District shall be submitted, reviewed and approved according to Chapter 1199, Amending Procedures and all other applicable procedures and regulations of the city. Upon approval of the change of zoning, the newly created Planned Development Overlay District shall be an overlay of the existing zoning district or districts.

Development plans for the Planned Development Overlay District shall be submitted,
reviewed, approved and amended under the procedures for conditional use permits in § 1191.10, Conditional Use Permits and the procedures and requirements of Chapter 1195, Planned Development Areas with the following exceptions and clarifications:

(a) The Preliminary Development Plans shall be submitted and reviewed simultaneous with the request for a change of zoning but approval and granting of the conditional use permit shall only become effective upon the effective date for the approval of the change of zoning.

(b) Any requested change to the General Development Plan including deviations from the established planning criteria after approval of the change of zoning shall be considered according to § 1195.09, Amendment To Plans with the exception of any change to the boundaries or development Category designation pursuant to §§ 1156.31(a) and 1156.31(b), respectively, which shall require a change in zoning.

(Ord. 3215, passed 7-7-92)

§ 1156.61 TERMINATION OF ZONING AND DEVELOPMENT PLAN APPROVALS.

The change of zoning to a Planned Development Overlay District shall be void and the land shall revert to the underlying zoning district classification if:

(a) Final Development Plans are not submitted within one year from the date of approval of the change of zoning unless an extension is granted pursuant to § 1195.05(b)(3).

(b) A building permit has not been issued within one year after approval of the Final Development Plans or the building permit expires without commencement of construction, unless an extension is granted pursuant to § 1195.10.

(Ord. 3215, passed 7-7-92)

CHAPTER 1157: INDUSTRIAL DISTRICTS

Section

1157.01 Intent
1157.02 Use regulations
1157.03 Use regulations; Office-Laboratory District
1157.04 Use regulations; Manufacturing-Distribution District
1157.05 - 1157.10 [Reserved]
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1157.29 Planning criteria for all districts
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1157.32 Industrial Park Planned Development Area
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1157.51 Approval of plans

Cross-reference:

Business districts, see Ch. 1155

Class Two Height District, see § 1181.13

Conditions for variances and exceptions, see §§ 1197.10 and 1197.11

Lot definitions and measurements, see § 1113.14

Nonconforming uses and lots, see Ch. 1173

Parking and loading facilities, see Ch. 1183

Prohibited uses, see Ch. 1189

Sign restrictions and regulations for industrial districts, see § 1187.16

Uses defined, see § 1113.24

§ 1157.01 INTENT.

Office-Laboratory and Manufacturing-Distribution Districts are hereby established in order to achieve, among others, the following purposes:

(a) To provide convenient and sufficient areas for carrying on research and development and for the production and distribution of goods to serve and promote economic development of the community;

(b) To provide Office-Laboratory Districts in which office uses are permitted and where limited retail and limited manufacturing associated with research and development laboratories are permitted as conditional uses;
(c) To protect and stabilize developments from traffic congestion by regulating the intensity of use, by requiring off-street parking, loading and on-site circulation facilities and by regulating the access to street;

(d) To protect nearby residential districts by restricting the types of manufacturing uses to those which will not create objectionable influences;

(e) To protect manufacturing and related development against congestion insofar as possible and appropriate by limiting the bulk of buildings in relation to the land and by providing off-street parking and loading facilities;

(f) To promote the most desirable use of land in accordance with the objectives of the Master Plan of the city; and

(g) To provide for landscaped settings for such developments in order to protect adjacent residential areas and areas of less intense usage.

(‘64 Code, § 1157.01) (Ord. 2042, passed 12-20-72; Am. Ord. 3741, passed 7-20-99)

§ 1157.02 USE REGULATIONS.

Buildings and land shall be used and shall be designed, erected, altered, moved and maintained in Office-Laboratory and Manufacturing-Distribution Districts only for the uses specifically permitted in the use regulation established for each district.

(a) Existing dwellings within any industrial district shall be construed as a nonconforming use, but may be continued, extended, altered, moved and maintained subject to all lot, setbacks and planning criteria and height regulations of the nearest residential district.

(b) A lot occupied by a one or two-family dwelling shall not be occupied by any other main use permitted in any industrial district or accessory use other than accessory to a dwelling.

(c) Any building designed and constructed as a one or two-family residence and existing within any industrial district on the effective date of this section (Ordinance 2042, passed December 20, 1972) shall not be occupied, in whole or in part, by any other use unless the entire building is redesigned and reconstructed to express and serve the proposed use in regard to exterior design, the building plan and site plan, and shall be in accordance with all the requirements of the Building Code pertaining to industrial structures.

(‘64 Code, § 1157.02) (Ord. 2042, passed 12-20-72)
§ 1157.03 USE REGULATIONS; OFFICE-LABORATORY DISTRICT.

(a) Main buildings and uses permitted. The following main buildings and uses shall be permitted in Office-Laboratory Districts.

(1) Office buildings.

A. Administrative, executive.
B. Professional, engineering.
C. Financial, accounting.
D. Governmental.
E. Public utility.
F. Sales offices, provided only samples are displayed or stored in the building and no goods are distributed.
G. Medical laboratories.
H. Hospitals.

(b) Conditional uses permitted. The following conditional uses may be permitted as an option of the city to grant by conditional use permit in accordance with the provisions of § 1191.10 after recommendation of the Planning Commission and approval by Council

(1) Ancillary business uses in office buildings in accordance with the requirements set forth below:

A. Ancillary business uses shall be limited to:
   1. Banking and other financial services.
   2. Cafeteria, snack bar, sit down restaurant/lounge.
   3. Newsstand, barber or beauty shops.
   4. Any other similar service or retail facility engaged primarily in providing service to the office building tenants and their employees.

B. Such uses shall be located, sized and intended to provide support services to the primary businesses and employees of the development;
C. The surrounding office or industrial area shall be of sufficient size to warrant these services.

(2) Manufacturing facilities and operations associated with research and development laboratories when necessary or incidental in connection therewith, but not for conducting thereon manufacturing operations of any other kind. However, such associated manufacturing uses shall not be permitted in office developments that have direct access onto SR 21 or that have access onto SR 21 from an interior street serving the office development.

(3) Child day care. In accordance with the requirements of § 1153.16, Regulations for Child Day Care.

(c) Similar main uses permitted. Any other office-laboratory establishment or use not listed above or in any other use classification and determined as similar by the Planning Commission shall be permitted according to the standards set forth in § 1191.11.

(d) Accessory uses permitted. Any accessory use which is incident to a permitted main use shall be permitted provided it is planned and developed integrally with the main building, and that it has no injurious effects on the adjoining residential district, such as:

(1) Storage garages and off-street parking for employees and customers as required and regulated in Chapter 1183.

(2) Maintenance and storage facilities fully enclosed in an approved building or buildings.

(3) Employee lunch rooms, recreational facilities and employee assembly rooms if provided in main building or buildings.

(4) Signs as permitted and regulated in § 1187.16.

(5) Child day care provided exclusively for children of employees.

(e) Prohibited uses. Over the counter type sales.

(64 Code, § 1157.03) (Ord. 2042, passed 12-20-72; Am. Ord. 2140, passed 1-21-75; Am. Ord. 3195, passed 2-4-92; Am. Ord. 3741, passed 7-20-99; Am. Ord. 4854, passed 6-17-14)

§ 1157.04 USE REGULATIONS; MANUFACTURING-DISTRIBUTION DISTRICT.

(a) Main buildings and uses permitted. The following main buildings and uses shall be permitted in Manufacturing-Distribution Districts.
(1) Buildings and uses permitted in Office-Laboratory Districts.

(2) Manufacturing limited to the following products and processes performed within wholly enclosed buildings:

A. Clothing, leather goods, athletic equipment.

B. Cosmetics, toiletries, pharmaceutical products (compounding).

C. Food and drink products.

D. Manufacturing processes such as fabrication, cutting, machining, sawing, polishing and assembling products, such as:
   1. Cameras, clocks, jewelry, cutlery, kitchen utensils.
   2. Electrical appliances, equipment and supplies.
   3. Hand tools, dies, engineering, medical and musical instruments and similar steel products.

E. Printing, publishing and engraving.

F. Wood products such as furniture, patterns.

G. Medical devices.

H. Electronic devices.

(3) Distribution and wholesale establishment conducted from wholly enclosed buildings where the main use consists of the receiving and distribution of products for retail sale elsewhere; provided that:

A. All vehicles other than automobiles for employees, customers or company use cars shall be parked, stored or serviced either in an enclosed building or in an open yard behind the building setback line and shall be screened from abutting streets and property by a solid masonry wall or evergreen hedge at least five (5) feet in height at the time of planting or landscaped earth mound, as deemed suitable by the Planning Commission.

(4) Household moving and storage establishments, bus terminals and storage garages.

(b) Similar main uses permitted. Any other office use not listed above or in any subsequent classification may be permitted if determined by the Planning Commission to be a use similar to any permitted use in accordance with the procedures set forth in § 1191.11.

(c) Accessory uses permitted. Any accessory use which is incident to a permitted
main use shall be permitted, provided it is planned and developed integrally with the main building, and that it has no injurious effects on the adjoining residential districts, such as:

(1) Storage garages and off-street parking for employees and customers as required and regulated in Chapter 1183.

(2) Maintenance and storage facilities fully enclosed in an approved building or buildings.

(3) Employee lunch rooms, recreational facilities and employee assembly rooms if provided in the main building or buildings.

(4) Signs as permitted and regulated in § 1187.16.

(5) Child day care provided exclusively for children of employees.

(d) **Prohibited uses.** Over the counter type sales.

(e) **Conditional uses permitted.** The following conditional uses may be permitted as an option of the city to grant by conditional use permit in accordance with the provisions of § 1191.10 after recommendation of the Planning Commission and approval of Council:

(1) **Child day care.** In accordance with the requirements of § 1153.16, Regulations for Child Day Care.

('64 Code, § 1157.04) (Ord. 2042, passed 12-20-72; Am. Ord. 2140, passed 1-21-75; Am. Ord. 3195, passed 2-4-95; Am. Ord. 3824, passed 8-1-00; Am. Ord. 4855, passed 6-17-14; Am. Ord. 4856, passed 6-17-14)

**§§ 1157.05 - 1157.10 [RESERVED].**

**§ 1157.11 PERFORMANCE REGULATIONS.**

As a precedent to occupancy, any use permitted in an Office-Laboratory or Manufacturing-Distribution District, shall comply with the following performance standards:

(a) **Structures.** All permitted main and accessory uses and operations shall be performed wholly within an enclosed building or buildings, provided that:

(1) Testing and storage of a finished product in open yards may be permitted if the yard is screened from abutting streets and residential areas by a substantially solid fence or
landscaping at least five (5) feet in height at the time of planting as deemed suitable by the Commission,

(2) Overnight parking of cargo carriers in the process of loading or unloading may be permitted in the side or rear yard if the yard is screened from abutting streets by a substantially solid fence or landscaping at least five (5) feet in height, as deemed suitable by the Planning Commission.

(3) Roof top equipment shall either be out of sight from the road right-of-way or shall be suitably screened from that view. The screening shall be of a type that is harmonious with the building and acceptable to the Planning Commission.

(b) Fire prevention. Flammable liquids shall be stored, handled and used in compliance with regulations set forth in Bulletin No. 30L of the National Fire Protective Association; other material stored in structures or yards shall be accessible to fire-fighting equipment and shall comply with other fire prevention codes of the city.

(c) Solid wastes. Solid wastes resulting from any permitted operation shall be stored within a wholly enclosed building.

(d) Liquid wastes. Liquid wastes shall not be discharged into a reservoir, stream or other open body of water unless given primary, secondary and tertiary and any additional special treatment as required. All methods of sewage and industrial waste treatment and disposal shall be approved by the State Department of Health and all effluent from a treatment plant shall at all times comply with the requirements of the Ohio Water Pollution Control Board.

(e) Soil removal. No excavating, filling, grading, soil stripping or similar operations shall be conducted in such a manner as to leave unsightly or dangerous excavations or soil banks, or in such a manner as to increase erosion. All such operations shall conform to the requirements of Chapter 1175.

(f) Pollution and nuisances.

(1) Smoke. Electricity, gas or fuel oil shall be used for heating and the supply of power.

(2) Fly ash, dust and dirt. It shall be unlawful to exhaust or discharge into the air any quantity of fly ash, dust, dirt or similar form of air pollution which may become discernible as settlement.

(3) Noxious or toxic matter. The emission of toxic, noxious or corrosive fumes or gases which may be aggravating or injurious to property, vegetation, animals or human health shall be prohibited.

(4) Odorous matter. The emission of odorous gases or other odorous matter
in such quantities as to produce a nuisance or hazard shall be prohibited.

(g) **Noise.** Noise shall be muffled so as not to become objectionable due to intermittence, beat, frequency or shrillness and the sound pressure level shall not exceed the average intensity of street noise at the nearest residential street line for any hour.

(h) **Vibration.** Vibrations perceptible without the use of instruments beyond the lot line occupied by the use shall not be permitted.

(i) **Radioactive or electrical disturbance.** Radioactive or electrical disturbances shall not be created which would adversely affect any form of life or equipment at or beyond the boundaries of the lot occupied by the use.

(j) **Heat and glare.** No industrial operation shall be carried on that would produce heat or glare perceptible from any property line of the lot on which the operation is located. Industrial and exterior lighting shall be used in a manner that produces no glare on public highways or neighboring property.

('64 Code, § 1157.11) (Ord. 2042, passed 12-20-72; Am. Ord. 2140, passed 1-21-75)

§§ 1157.12 - 1157.28 [RESERVED].

§ 1157.29 **PLANNING CRITERIA FOR ALL DISTRICTS.**

Buildings and land shall be used and buildings designed, erected, altered, moved and maintained in accordance with the following regulations.

(a) **Required lot area, width and setbacks from streets.**

(1) Minimum lot area shall be five (5) acres.

(2) Minimum lot width shall be three hundred (300) feet.

(3) The minimum setback of buildings from the right-of-way of an arterial, collector or industrial street shall be not less than one hundred fifty (150) feet.

(4) The minimum setback of off-street parking areas from the right-of-way of an arterial, collector, local or industrial street shall be not less than eight five (85) feet.

(5) All yards fronting upon a public street shall be landscaped and maintained in a condition satisfactory to the city, and except for driveways, pedestrian walks, signs,
landscaping features and visitor and employee parking areas, which shall not be used for any other purpose.

(b) Reduced standards for interior lots. The following standards shall apply to lots fronting on interior streets when the interior streets are designated as interior streets and are constructed within the boundaries of an industrial development:

(1) The minimum lot size shall be four (4) acres.
(2) Minimum lot width shall be three hundred (300) feet.
(3) The minimum setback of buildings from the interior street right-of-way shall be not less than seventy five (75) feet.
(4) The minimum parking setback from the interior street right-of-way shall not be less than fifty (50) feet, provided the area between the parking setback and the public street right-of-way is mounded and/or landscaped as deemed suitable by the Planning Commission.

(c) Side yards.

(1) The minimum distance between any building and the side lot line shall not be less than fifty (50) feet.
(2) No off-street parking, service or loading facilities shall be permitted within a minimum twenty five (25) foot side yard.
(3) These requirements may be modified as prescribed in Chapter 1193 when on-site circulation, parking, loading and landscaping are coordinated with adjoining developments and set forth in joint agreements as approved by the Planning Commission.

(d) Rear yards.

(1) The minimum distance between any building and the rear lot line shall not be less than seventy five (75) feet.
(2) No off-street parking, service or loading facilities shall be permitted within a minimum twenty five (25) foot rear yard.
(3) These requirements may be modified as prescribed in Chapter 1193 when on-site circulation, parking, loading and landscaping are coordinated with adjoining developments and set forth in joint agreements as approved by the Planning Commission.

(e) Yards adjoining residential districts. Whenever any industrial use is located on a lot abutting a residential district, the following standards shall apply:
(1) The minimum building or loading area setback from the side or rear yard lot line that abuts the residential district shall be one hundred fifty (150) feet.

(2) The minimum parking or driveway setback from the side or rear yard lot line that abuts the residential district shall be seventy five (75) feet.

(3) The area adjacent to a residential lot line shall be landscaped and screened with a substantially solid fence and landscaping at least five (5) feet in height at time of planting as deemed suitable by the Planning Commission for the area being screened.

(f) Buildings adjacent to limited access highways. Buildings adjacent to limited access highways shall be designed and landscaped to be visually attractive as seen from the highway.

(g) Landscaping requirements. Landscaping shall not be less than 20% of the lot area.

(h) Loading docks shall not face arterial, collector or local streets or adjacent residential districts. All loading docks and similar service areas shall be screened from all abutting streets and properties by a solid masonry wall, evergreen hedge at least five (5) feet in height at the time of planting and/or landscaped earth mound, as deemed suitable by the Planning Commission.

(i) Trash containers. All trash containers shall be located wholly within a main building or in an approved enclosure structure. Exterior trash enclosures shall meet the following requirements except as otherwise recommended by the Planning Commission and approved by Council:

(1) The enclosure shall be six (6) feet in height with solid masonry walls on three (3) sides with a solid gate or door on the fourth side.

(2) The main building may be one (1) wall, but the trash container shall be a minimum of six (6) feet away from the building and steel bollards shall be installed to maintain the minimum six (6) foot container and building separation. The trash container shall not be located under a building overhang.

(3) Separate trash enclosures shall be located at least six (6) feet from the main building with minimum setbacks from property lines equal to the setback requirements for loading dock areas.

(4) Enclosures shall be designed to be compatible in design and materials as the main building.

(5) Where enclosures are located adjacent to residential areas or in other visually sensitive areas, as determined by the Planning Commission, trash enclosures shall be
further screened with a landscaped buffer as approved by the Planning Commission.

(j) Design of parking lots. Parking areas shall be appropriately designed and
developed as required by the Planning Commission with landscaped areas, pedestrian walkways,
and planted islands reasonably distributed throughout so as to interrupt the expanse of paved
areas. The parking areas shall meet the requirements of § 1183.15.

(Ord. 3824, passed 8-1-00)

§ 1157.30 PLANNING CRITERIA FOR OFFICE-LABORATORY DISTRICT.

Building and land shall be used and buildings designed, erected, altered, moved and
maintained with O-L Districts in accordance with the following regulations:

(a) General Criteria.

(1) Building requirements.

A. Any office building shall contain a minimum of ten thousand
(10,000) square feet gross floor area and have at least two (2) complete stories.

B. Ancillary business uses permitted as conditional use shall be
located in an office building and the total floor area devoted to ancillary business shall not
exceed 25% of the total building floor area.

(b) Deviations. In reviewing the application, the Planning Commission and Council may
find that the application is not in strict compliance with one or more requirements of the Zoning
Code, yet is considered to be equivalent to the requirements of this Code. When an application is
considered to be equivalent, the Planning Commission and Council may approve the application
with minor deviations as set forth below:

(1) The Planning Commission and Council may consider as application
equivalent when:

A. The proposed development plan substantially complies with all
specific requirements and with the purposes, intent and basic objectives of the zoning district;

B. Through imaginative and skillful design in the arrangement of
buildings, open space, streets, access drives and other features, as disclosed by the application
the proposal results in a development of equivalent or higher quality than which could be
achieved through strict application of such standard requirements; and

C. The development, as proposed, shall have no adverse impact upon
the surrounding properties or upon the health, safety or general welfare of the community.

(2) It shall be the responsibility of the applicant to demonstrate to the Planning Commission and Council that the provisions of this section have been satisfied. When evaluating the application with respect to this section, the Planning Commission and Council shall make any finding of equivalency in writing which explains how and why the proposal has satisfied the above criteria. When making such finding the Commission and Council may approve the proposed application, including deviations from the numerical standards herein, as if the application were in strict compliance with the standards and requirements in this Code.

(Ord. 3741, passed 7-20-99; Am. Ord. 3824, passed 8-1-00)

§ 1157.31 [RESERVED].

§ 1157.32 INDUSTRIAL PARK PLANNED DEVELOPMENT AREA.

(a) Industrial Park Planned Development Area. This area is a conditional development and an option of the city to grant by conditional use permit after recommendation of the Planning Commission and approval of Council with the preliminary development plans in any industrial zoning district when:

(1) It is determined by the Commission and Council that it is in keeping with the intent of the city's industrial uses, objectives, the character of the city and will enhance and compliment the city; and

(2) It complies with all of the standards and regulations for the district in which the planned development is located, unless such standards and regulations are specifically modified as may be permitted within this chapter.

(b) Planning and organization. The planned development area shall initially be an area of a totally planned development project under one organization. This organization shall be responsible for:

(1) Establishment of the overall development concept, layout, architectural theme; and

(2) Obtaining approval of the conditional use permit and overall preliminary plans. The final and total development may be by a single or a number of separate independent entities. The planned development area may be extended or amended with the approval of the Commission and Council in accordance with the procedures contained in Chapter 1195, provided
it is developed in harmony with the balance of the planned development area and the adjacent developments.

(c) General development criteria. The following general development criteria shall apply unless specifically otherwise recommended by the Commission and approved by Council.

   (1) The planned development area shall not be less than ten (10) acres.

   (2) Buildings designed for office use only shall be considered up to a Class Three height and shall provide one parking space for each two hundred (200) square feet of building area.

   (3) Buildings adjacent to freeways shall be designed and landscaped to be visually attractive as seen from the freeway.

   (4) Yard requirements of the planned development boundaries shall be the standard industrial yard requirements.

   (5) The landscaping shall not be less than twenty percent (20%) of the planned development area and shall reflect a park like atmosphere as deemed suitable by the Commission.

   (6) A corner lot fronting on both an interior industrial street, designated on the City Zoning Map, and a standard industrial or other street, shall be required to have the side facing the noninterior street meet the standard industrial front yard requirements.

   (7) Signs for the planned development area shall be coordinated and compatible with the overall development and architectural theme. Specific signs as to number and location shall be approved as part of the overall development plan. Pole signs are specifically prohibited.

(d) Interior industrial streets. Upon recommendation of the Commission and approval of Council, some or all of the following development criteria, or modifications thereof, may be permitted for areas off industrial streets. The following criteria does not apply to requirements that are measured from standard streets.

   (1) Interior industrial street width and row requirements shall not be less than those for residential streets.

   (2) Lot area shall not be less than two (2) acres.

   (3) Lot width shall not be less than two hundred (200) feet.

   (4) Building front yard setback shall not be less than fifty (50) feet from the street row. No automobile parking shall be permitted within the reduced building front yard.
requirement.

(5) Main and accessory building or use minimum total side yard requirements shall not be less than fifty (50) feet. Each side yard shall not be less than ten (10) feet.

(6) Off-street parking and driveway side yards behind the building setback line shall not be less than ten (10) feet from the lot line unless coordinated with the adjacent development.

(7) Rear yard building setback shall not be less than fifty (50) feet.

(8) Rear yard parking and driveway setback shall not be less than twenty-five (25) feet.

(9) Spacing between driveways shall be the maximum or minimum as practical as determined by the development design.

('64 Code, § 1157.32) (Ord. 2723, approved by voters 11-6-84)

§§ 1157.33 - 1157.40 [RESERVED].

§ 1157.41 HEIGHT REGULATIONS.

Unless otherwise shown on the Zone Map, all M-D districts shall be in a Class Two Height District. All O-L districts shall be in a Class Three Height District provided that additional stories or twelve (12) foot increments, whichever is lowest, may be permitted for each floor of the office building devoted entirely to parking.

('64 Code, § 1157.41) (Ord. 2042, passed 12-20-72; Am. Ord. 3741, passed 7-20-99)

§§ 1157.42 - 1157.50 [RESERVED].

§ 1157.51 APPROVAL OF PLANS.

(a) Development plans involving one or more buildings for the same occupancy or the same parcel shall be submitted to, and approved by the Planning Commission in accordance
with the provisions of Chapter 1193 before a building permit is issued.

  (b) Planned development area plans shall be submitted to and approved in accordance with applicable development provisions of Chapter 1195 and procedures for issuing conditional use permits in § 1191.10 before a building permit is issued.

  (c) Development plans involving condominium type industrial buildings shall be submitted to and approved by the Planning Commission in accordance with development provisions of Chapter 1195 before a building permit is issued.

('64 Code, § 1157.51) (Ord. 2140, passed 1-21-75; Am. Ord. 2723, approved by voters 11-6-84)

CHAPTER 1158: AUTOMOTIVE PARKING DISTRICTS

Section

1158.01 Intent  
1158.02 Use regulations  
1158.03 Performance regulations  
1158.04 Approval of plans  

Cross-reference:

Automotive use definitions, see § 1113.04  
Conditions for variances and exceptions, see §§ 1197.10 and 1197.11  
Development plan fees, see § 1101.02  
Grade lines, see Ch. 1317  
Loading space defined, see § 1113.13  
Nonconforming uses and lots, see Ch. 1173  
Prohibited uses, see Ch. 1189  
Residential district regulation and schedules, see Ch. 1151

§ 1158.01 INTENT.

Automotive Parking Districts are hereby established in order to achieve, among others,
the following purposes:

(a) To provide convenient and sufficient areas for off-street parking to serve and promote the economic development of the community;

(b) To protect and stabilize developments from traffic congestion and by regulating the access to streets;

(c) To protect nearby residential districts from congestion and encroachment by commercial parking;

(d) To protect transitional areas where open land use would be more appropriate than building developments; and

(e) To promote the most desirable use of land in accordance with the objectives of the Master Plan of the city.

('64 Code, § 1158.01) (Ord. 2042, passed 12-20-72)

§ 1158.02 USE REGULATIONS.

The only use permitted in Automotive Parking Districts shall be automobile and vehicle parking and loading and unloading of vehicles servicing properties abutting such Districts.

(a) Existing dwellings within any Automotive Parking District shall be construed as a nonconforming use, but may be continued, extended, altered, moved and maintained subject to all lot, setbacks and planning criteria and height regulations of the nearest residential district.

(b) A lot occupied by a one or two-family dwelling shall not be occupied by any other main use.

(c) Any building designed and constructed as a one or two-family residence and existing within any Automotive Parking District on the effective date of this section (Ordinance 2042, passed December 20, 1972) shall not be occupied, in whole or in part, by any other use.

('64 Code, § 1158.02) (Ord. 2042, passed 12-20-72)

§ 1158.03 PERFORMANCE REGULATIONS.

As a precedent to occupancy the use in an Automotive Parking District shall comply with the following performance standards and conditions.
(a) There shall be provided automobile and motor vehicle parking spaces as required by Chapter 1183; and

(b) The grade level or levels of the land to be improved shall be fixed by the City Engineer as follows:

(c) Grade levels shall be fixed for the entire District. Such grade levels so fixed shall be maintained throughout the entire District and shall be so fixed as to provide the maximum number of automobile and vehicle parking spaces and adequate surface drainage. To the extent that it is practicable, the grade levels so fixed shall conform to the grade levels of buildings and structures on lands abutting this District.

(d) Design of Parking Lots. Parking areas shall be appropriately designed and developed as required by the Planning Commission with landscaped areas, pedestrian walkways, and planted islands reasonably distributed throughout so as to interrupt the expanse of paved areas. The parking areas shall meet the following requirements, except as otherwise approved by the Planning Commission and approved by Council: (See § 1183.15 for additional requirements.)

1. Islands, walkways and landscaped areas shall have a minimum dimension of ten (10) feet.

2. Every landscaped area shall be planted with a large or medium sized permitted tree as defined in Chapter 915, and according to the planting instructions contained in that Chapter.

3. Parking areas shall be designed so as to have no more than twenty (20) cars in an unobstructed line of sight without an intervening landscaped island.

4. Not less than 10% of the land area within the parking area shall be developed as landscaping planting areas, including perimeter areas as determined by the Planning Commission.

5. Parking areas with existing specimen trees of eighteen inches (18") of D.B.H. or greater, as defined in Chapter 915, shall be designed to accommodate the preservation of these trees with islands adequate to protect the tree and root system unless otherwise approved by the City Arborist.

('64 Code, § 1158.03) (Ord. 2042, passed 12-20-72; Am. Ord. 3741, passed 7-20-99)

§ 1158.04 APPROVAL OF PLANS.

Development plans shall be submitted to and approved by the Planning Commission for
all proposed automotive parking developments in accordance with Chapter 1193 before a building permit shall be issued.

(64 Code, § 1158.04) (Ord. 2042, passed 12-20-72)

CHAPTER 1159: FLOOD REDUCTION AND CONTROL

Section

1159.01 Statement of purpose
1159.02 Definitions
1159.03 Methods of reducing flood loss
1159.04 Lands to which this chapter apply
1159.05 Basis for establishing the areas of special flood hazard
1159.06 Abrogation and greater restrictions
1159.07 Interpretation
1159.08 Warning and disclaimer of liability
1159.09 Severability
1159.10 Administration
1159.11 Floodplain development permits
1159.12 Application required; fees
1159.13 Review and approval of a floodplain development permit
1159.14 Map maintenance; activities
1159.15 Data use and flood map interpretation
1159.16 Substantial damage determinations
1159.17 Use and development standards for flood hazard reduction
1159.18 Appeals
1159.19 Enforcement
1159.99 Penalty

Cross-reference:

Flood definitions, see § 1113.27

Prohibited uses, see Ch. 1189

Soil removal and drainage courses, see § 1175.01
§ 1159.01 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare of the residents of the city, and to:

(a) Protect human life and health;
(b) Minimize expenditure of public money for costly flood control projects;
(c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
(d) Minimize prolonged business interruptions;
(e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
(f) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
(g) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
(h) Minimize the impact of development on adjacent properties within and near flood prone areas;
(i) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
(j) Minimize the impact of development on the natural, beneficial values of the floodplain;
(k) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
(l) Meet community participation requirements of the National Flood Insurance Program.

(Ord. 4314, passed 4-17-07)

§ 1159.02 DEFINITIONS.
Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give the provisions contained in this chapter the most reasonable application:

**ACCESSORY STRUCTURE.** A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

**APPEAL.** A request for review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.

**BASE FLOOD.** The flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the one percent (1%) chance annual flood or 100-year flood.

**BASE (100-YEAR) FLOOD ELEVATION (BFE).** The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from one (1) to three (3) feet).

**BASEMENT.** Any area of the building having its floor subgrade (below ground level) on all sides.

**CRITICAL DEVELOPMENT.** Critical development is that which is critical to the community's public health and safety, are essential to the orderly functioning of a community, store or produce highly volatile, toxic or water-reactive materials, or house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical development include jails, hospitals, schools, fire stations, nursing homes, wastewater treatment facilities, water plants, and gas/oil/propane storage facilities.

**DEVELOPMENT.** Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**ENCLOSURE BELOW THE LOWEST FLOOR.** See **LOWEST FLOOR**.

**EXECUTIVE ORDER 11988 (FLOODPLAIN MANAGEMENT).** Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA).** The agency with the overall responsibility for administering the National Flood Insurance Program.

**FILL.** A deposit of earth material placed by artificial means.
**FLOOD** or **FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD HAZARD BOUNDARY MAP (FHBM).** Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

**FLOOD INSURANCE RATE MAP (FIRM).** An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.

**FLOOD INSURANCE RISK ZONES.** Zone designations on FHBM and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

(1) **ZONE A.** Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.

(2) **ZONES A1-30 and ZONE AE.** Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.

(3) **ZONE AO.** Special flood hazard areas inundated by the 100-year flood; with flood depths of one (1) to three (3) feet (usually sheet flow on sloping terrain); average depths are determined.

(4) **ZONE AH.** Special flood hazard areas inundated by the 100-year flood; flood depths of one (1) to three (3) feet (usually areas of ponding); base flood elevations are determined.

(5) **ZONE A99.** Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a federal flood protection system under construction; no base flood elevations are determined.

(6) **ZONE B and ZONE X (UNSHADED).** Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than one (1) foot or with contributing drainage area less than one (1) square mile; and areas protected by levees from the base flood.

(7) **ZONE C and ZONE X (UNSHADED).** Areas determined to be outside the 500-year floodplain.

**FLOOD INSURANCE STUDY (FIS).** The official report in which the Federal
Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.

**FLOOD PROTECTION ELEVATION (FPE).** The base flood elevation plus two (2) feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the Floodplain Administrator.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one-half (0.5) foot at any point within the community. The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

**FREEBOARD.** A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

**HISTORIC STRUCTURE.** Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

3. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.

**HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSIS.** An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

**LETTER OF MAP CHANGE (LOMC).** An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and
Flood Insurance Studies. LOMCs are broken down into the following categories:

(1) **LETTER OF MAP AMENDMENT (LOMA).** A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

(2) **LETTER OF MAP REVISION (LOMR).** A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One (1) common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

(3) **CONDITIONAL LETTER OF MAP REVISION (CLOMR).** A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in this chapter for enclosures below the lowest floor.

**MANUFACTURED HOME.** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of this chapter, a manufactured home includes manufactured homes and mobile homes as defined in R.C. Chapter 3733.

**MANUFACTURED HOME PARK.** As specified in the Ohio Administrative Code 3701-27-01, a manufactured home park means any tract of land upon which three (3) or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three (3) or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

**NATIONAL FLOOD INSURANCE PROGRAM (NFIP).** A federal program enabling
property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the federal government will make flood insurance available within the community as a financial protection against flood loss.

**NEW CONSTRUCTION.** Structures for which the "start of construction" commenced on or after the initial effective date of the city Flood Insurance Rate Map, January 16, 1981, and includes any subsequent improvements to such structures.

**PERSON.** Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in R.C. § 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

**RECREATIONAL VEHICLE.** A vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGISTERED PROFESSIONAL ARCHITECT.** A person registered to engage in the practice of architecture under the provisions of R.C. §§ 4703.01 to 4703.19.

**REGISTERED PROFESSIONAL ENGINEER.** A person registered as a professional engineer under R.C. Chapter 4733.

**REGISTERED PROFESSIONAL SURVEYOR.** A person registered as a professional surveyor under R.C. Chapter 4733.

**SPECIAL FLOOD HAZARD AREA.** Also known as *AREAS OF SPECIAL FLOOD HAZARD*, it is the land in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. *SPECIAL FLOOD HAZARD AREAS* may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical
flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

**START OF CONSTRUCTION.** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

**STRUCTURE.** A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures, which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include:

1. Any improvement to a structure that is considered new construction;
2. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
3. Any alteration of a historic structure, provided that the alteration would not preclude the structure's continued designation as a historic structure.

**VARIANCE.** A grant of relief from the standards of this chapter consistent with the variance conditions and procedures contained in this chapter.

**VIOLATION.** The failure of a structure or other development to be fully compliant with
the provisions contained in this chapter.

(Ord. 4314, passed 4-17-07)

§ 1159.03 METHODS OF REDUCING FLOOD LOSS.

In order to accomplish its purposes, this chapter includes methods and provisions for:

(a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;

(b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(d) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and

(e) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(Ord. 4314, passed 4-17-07)

§ 1159.04 LANDS TO WHICH THIS CHAPTER APPLY.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city as identified in § 1159.05, including any additional areas of special flood hazard annexed by the city.

(Ord. 4314, passed 4-17-07)

§ 1159.05 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

For the purposes of this chapter, the following studies and/or maps are adopted by reference as if the same were fully rewritten herein at length:

(a) *Flood Insurance Study Cuyahoga County, Ohio and Incorporated Areas* and
"American Legal Publishing Corporation" 170
such area, such state or federal law shall take precedence over the conflicting provision(s) contained in this chapter.

(Ord. 4314, passed 4-17-07)

§ 1159.08 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. 4314, passed 4-17-07)

§ 1159.09 SEVERABILITY.

Should any section or provision of this chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this chapter as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. 4314, passed 4-17-07)

§ 1159.10 ADMINISTRATION.

(a) Designation of the Floodplain Administrator. The City Engineer is hereby designated to administer and implement the provisions contained in this chapter and is referred to herein as the Floodplain Administrator.

(b) Duties and responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

(1) Evaluate applications for permits to develop in special flood hazard areas.
(2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.

(3) Issue permits to develop in special flood hazard areas when the provisions of this chapter have been met, or refuse to issue the same in the event of noncompliance.

(4) Inspect buildings and lands to determine whether any violations of the provisions contained in this chapter have been committed.

(5) Make and permanently keep all records for public inspection necessary for the administration of this chapter including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of this chapter.

(6) Enforce the provisions contained in this chapter.

(7) Provide information, testimony, or other evidence as needed during variance hearings.

(8) Coordinate map maintenance activities and FEMA follow-up.

(9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of this chapter.

(Ord. 4314, passed 4-17-07)

§ 1159.11 FLOODPLAIN DEVELOPMENT PERMITS.

It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in § 1159.05, until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions contained in this chapter. No such permit shall be issued by the Floodplain Administrator until the requirements of this chapter have been met.

(Ord. 4314, passed 4-17-07) Penalty, see § 1159.99
§ 1159.12 APPLICATION REQUIRED; FEES.

An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his or her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

(a) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

(b) Elevation of the existing, natural ground where structures are proposed.

(c) Elevation of the lowest floor, including basement, of all proposed structures.

(d) Such other material and information as may be required by the Floodplain Administrator to determine conformance with, and provide enforcement of this chapter.

(e) Technical analyses conducted by the appropriate design professional registered in the state and submitted with an application for a floodplain development permit when applicable:

(1) Floodproofing certification for non-residential floodproofed structure as required in § 1159.17(e).

(2) Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of § 1159.17(d)(5) are designed to automatically equalize hydrostatic flood forces.

(3) Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in § 1159.17(i)(3).

(4) A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than 0.1 (one-tenth) foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by § 1159.17(i)(2).
(5) A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by § 1159.17(i)(1).

(6) Generation of base flood elevation(s) for subdivision and large-scale developments as required by § 1159.17(c).

(7) Generation of the 500-year flood elevation for critical development as required by § 1159.17(k).

(8) Volumetric calculations demonstrating compensatory storage has been provided as required by § 1159.17(i)(4).

(f) **Fees.** The applicant shall initially deposit the sum of $500 with the Building Department to defray the cost of professional review and inspection of the applicant's permit application. The Director of Finance shall deposit all funds received under this chapter into a fund under the name of the applicant depositing such money. All expenses incurred by the city for the review and inspection of the applicant's plan and the subject site shall, upon proper authorization, be paid by the Director of Finance out of such fund. If, at any time prior to the completion of the project for which the applicant has sought approval, any individual fund has a balance of less than $125, the Director of Finance shall request in writing that the applicant deposit, within ten (10) days of such written request, additional funds to create a fund balance of not less than $500. The Floodplain Administrator shall notify the Finance Director at such time when the city's review and inspection process for each case has been completed and no additional professional reviews or inspections are necessary. The Finance Director shall verify with all professional reviewers and inspectors that they have submitted all of their invoices and that these invoices have been paid for that particular case. The Finance Director shall then promptly refund the balance of any funds remaining on deposit for that particular case to the entity who made such deposit with the city.

(Ord. 4314, passed 4-17-07) Penalty, see § 1159.99

§ 1159.13 REVIEW AND APPROVAL OF A FLOODPLAIN DEVELOPMENT PERMIT.

(a) **Review.** After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards and provisions of this chapter have been met. No floodplain development permit application shall be reviewed until all information required in § 1159.12 has been received by the Floodplain Administrator.

(b) The Floodplain Administrator shall review all floodplain development permit applications to ensure that all necessary permits have been received from those federal, state or...
local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

(c) **Approval.** Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work contemplated by such permit within one (1) year of the date of the issuance of such permit. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

(d) **Inspections.** The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

(e) **Post-construction certifications required.** The following as-built certifications are required after a floodplain development permit has been issued:

1. For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.

2. For all development activities subject to the standards of § 1159.14(a)(1), a Letter of Map Revision.

(f) **Revoking a floodplain development permit.** A floodplain development permit shall be revocable by the Floodplain Administrator, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Board of Zoning Appeals in accordance with § 1159.18.

(g) **Exemption from filing a development permit.** An application for a floodplain development permit shall not be required for:

1. Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than $5,000.

2. Development activities in an existing or proposed manufactured home...
park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.

(3) Major utility facilities permitted by the Ohio Power Siting Board under R.C. Chapter 4906.

(4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under R.C. Chapter 3734.

(5) Development activities undertaken by a federal agency and which are subject to Federal Executive Order

(h) Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards and provisions contained in this chapter.

(Ord. 4314, passed 4-17-07)

§ 1159.14 MAP MAINTENANCE; ACTIVITIES.

(a) To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the city flood maps, studies and other data identified in § 1159.05 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(1) Requirement to submit new technical data. For all development proposals that impact floodway delineations or base flood elevations, the city shall ensure that technical data reflecting such changes be submitted to FEMA within six (6) months of the date such information becomes available. These development proposals include:

A. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;

B. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;

C. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and

D. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with § 1159.17(c).

(2) It is the responsibility of the applicant to have technical data, required in
accordance with division (a)(1) hereof, prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

(3) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

   A. Proposed floodway encroachments that increase the base flood elevation; and

   B. Proposed development which increases the base flood elevation by more than one-tenth (0.1) foot in areas where FEMA has provided base flood elevations but no floodway.

(4) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to division (a)(1) hereof.

(b) Right to submit new technical data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor, and may be submitted at any time.

(c) Annexation/detachment. Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the city have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the city Flood Insurance Rate Map accurately represent the city boundaries, include within such notification a copy of a map of the city suitable for reproduction, clearly showing the new corporate limits or the new area for which the city has assumed or relinquished floodplain management regulatory authority.

(Ord. 4314, passed 4-17-07)

§ 1159.15 DATA USE AND FLOOD MAP INTERPRETATION.

The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

(a) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been
identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.

(b) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.

(c) When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:

(1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering this chapter.

(2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(d) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 1159.18.

(e) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.

(Ord. 4314, passed 4-17-07)

§ 1159.16 SUBSTANTIAL DAMAGE DETERMINATIONS.

Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Floodplain Administrator shall:

(a) Determine whether damaged structures are located in special flood hazard areas;

(b) Conduct substantial damage determinations for damaged structures located in
special flood hazard areas; and

(c) Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

(d) Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with increased cost of compliance insurance claims.

(Ord. 4314, passed 4-17-07)

§ 1159.17 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in §§ 1159.05 or 1159.15(a):

(a) Use regulations.

(1) Permitted uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the city are allowed provided they meet the provisions of this chapter.

(2) Prohibited uses.

A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under R.C. Chapter 3701.

B. Infectious waste treatment facilities in all special flood hazard areas, permitted under R.C. Chapter 3734.

C. Storage or processing of materials that are hazardous, flammable, or explosive in the identified special flood hazard area.

D. Storage of material or equipment that, in time of flooding, could
become buoyant and pose an obstruction to flow in identified floodway areas.

(b) Water and wastewater systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;

(2) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

(3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

(c) Subdivisions and large developments.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards and provisions contained in this chapter;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;

(4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least fifty (50) lots or five (5) acres, whichever is less; and

(5) The applicant shall meet the requirement to submit technical data to FEMA in § 1159.14(a)(1)D. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by § 1159.17(c)(4).

(d) Residential structures.

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring (division (d)(1) hereof) and construction materials resistant to flood damage (division (d)(2) hereof) are satisfied.

(2) New construction and substantial improvements shall be constructed with
methods and materials resistant to flood damage.

(3) New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. Where flood protection elevation data are not available the structure shall have the lowest floor, including basement, elevated at least two (2) feet above the highest adjacent natural grade. Support structures and other foundation members shall be certified by a registered professional engineer or architect as designed in accordance with ASCE 24, Flood Resistant Design and Construction.

(5) New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:

A. Be used only for the parking of vehicles, building access, or storage;

B. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or

C. Have a minimum of two (2) openings on different walls having a total net area not less than one (1) square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one (1) foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(7) Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of this division (d).
(e) Nonresidential structures.

(1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of divisions (d)(1) to (3) and divisions (d)(5) to (7) hereof.

(2) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:

A. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;

B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

C. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with divisions (e)(2)A. and B. hereof.

(3) Where flood protection elevation data are not available, the structure shall have the lowest floor, including basement, elevated at least two (2) feet above the highest adjacent natural grade.

(f) Accessory structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than six hundred (600) square feet. Such structures must meet the following standards:

(1) They shall not be used for human habitation;

(2) They shall be constructed of flood resistant materials;

(3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;

(4) They shall be firmly anchored to prevent flotation;

(5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and

(6) They shall meet the opening requirements of division (d)(5)C. hereof.

(g) Recreational vehicles. Recreational vehicles must meet at least one (1) of the following:
(h) Above ground gas or liquid storage tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

(i) Assurance of flood carrying capacity. Pursuant to the purpose and methods of reducing flood damage stated in this chapter, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:

(1) Development in floodways:

A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or

B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. Meet the requirements to submit technical data in §1159.14(a)(1);

2. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;

3. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;

4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and

5. Concurrence of the Mayor of the city and the chief executive officer of any other communities impacted by the proposed actions.

(2) Development in riverine areas with base flood elevations but no floodways:

A. In riverine special flood hazard areas identified by FEMA where
base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than one-tenth (0.1) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,

B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one-tenth (0.1) foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. An evaluation of alternatives which would result in an increase of one-tenth (0.1) foot or less of the base flood elevation and an explanation why these alternatives are not feasible;

2. Division (i)(1)B., items 1. and 3. to 5. hereof.

(3) Alterations of a watercourse. For the purpose of this chapter, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a federal, state, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

A. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.

B. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.

C. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the city specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
D. The applicant shall meet the requirements to submit technical data in § 1159.14(a)(1)C. when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

(4) Compensatory storage required for fill. Fill within the area of special flood hazard shall result in no net loss of natural floodplain storage. The volume of the loss of floodwater storage due to filling in the special flood hazard area shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures at or adjacent to the development site.

(j) Storage of materials. Storage of material or equipment not otherwise prohibited in division (a)(2) hereof shall be firmly anchored to prevent flotation.

(k) Critical development.

(1) Critical development is that which is critical to the community's public health and safety, are essential to the orderly functioning of a community, store or produce highly volatile, toxic or water-reactive materials, or house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical development include jails, hospitals, schools, fire stations, nursing homes, wastewater treatment facilities, water plants, and gas/oil/propane storage facilities.

(2) Critical developments shall be elevated to the 500-year flood elevation or be elevated to the highest known historical flood elevation (where records are available), whichever is greater. If no data exists establishing the 500-year flood elevation or the highest known historical flood elevation, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates 500-year flood elevation data.

Ord. 4314, passed 4-17-07  Penalty, see § 1159.99

§ 1159.18 APPEALS.

(a) Appeal to the Board of Zoning Appeals. The Board of Zoning Appeals shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of this chapter. The Board of Zoning Appeals may authorize variances in accordance with division (e) hereof. In granting a variance under this chapter, the Board of Zoning Appeals, for good cause, may impose such conditions that it deems appropriate to maintain the purposes of this chapter.

(b) Procedures for variances and appeals. Any applicant seeking a variance to the conditions imposed under this chapter or an appeal to an administrative decision made under this chapter, other than a decision by the Board of Zoning Appeals, may apply to or appeal to the
Board of Zoning Appeals. The following conditions shall apply:

(1) When filing an application for an appeal to the Board of Zoning Appeals from any orders, decisions, and determinations by the Floodplain Administrator or any other city administrative officer, board or commission, with respect to the application or enforcement of the provisions contained in this chapter, the applicant shall file a notice of appeal specifying the grounds therefore with the Building Department within ten (10) days of the Floodplain Administrator or any other city administrative officer, board or commission's order, decision or determination. Upon determining that the application is complete and upon receipt of the required fee as provided by City Council for appeals to the Board of Zoning Appeals, the Building Department shall transmit to the Board of Zoning Appeals the application and a transcript constituting the record from which the order, decision or determination subject to appeal was based. This matter shall be placed before the Board of Zoning Appeals and heard in accordance with the provisions contained in Chapter 1197.

(2) Applications for appeals or variances made under these regulations shall contain the following information:

A. The name, address, and telephone number of the applicant;

B. Proof of ownership or authorization to represent the owner of the property;

C. The location of the property, including street address and permanent parcel number;

D. A description of the Floodplain Administrator's order, decision or determination being appealed or the conditions of the provision or provisions of this chapter from which a variance is sought.

(3) Applications for variances or appeals of the Floodplain Administrator's orders, decisions or determinations shall not be resubmitted to the Board of Zoning Appeals unless, prior to the decision being made by the Board of Zoning Appeals, the applicant shows the Board of Zoning Appeals newly discovered evidence that could not have been presented with the original submission. The Board of Zoning Appeals may, at its sole and complete discretion, re-hear an appeal only if it finds specific evidence of a substantial change in circumstances of the same property has occurred since the time of the original submission.

(4) All other procedures for the hearing and deciding of applications for variances or appeals not covered by this section shall be in accordance with the provisions contained in Chapter 1197.

(5) A decision by the Board of Zoning Appeals in response to an application for a variance request or an appeal of Floodplain Administrator's order, decision or determination
filed pursuant to this chapter shall be final.

(c) The Board of Zoning Appeals shall have the power to authorize, in specific cases, such variances from the standards and provisions of this chapter, not inconsistent with federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of this chapter would result in unnecessary hardship.

(d) Public hearing. The Board of Zoning Appeals shall hold a public hearing in accordance with the provisions contained in Chapter 1197. At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of this chapter and the following factors:

1. The danger that materials may be swept onto other lands to the injury of others.
2. The danger to life and property due to flooding or erosion damage.
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
4. The importance of the services provided by the proposed facility to the community.
5. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
6. The necessity to the facility of a waterfront location, where applicable.
7. The compatibility of the proposed use with existing and anticipated development.
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
(e) Variances shall only be recommended by the Board of Zoning Appeals upon:

(1) A showing of good and sufficient cause.

(2) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of this chapter does not constitute an exceptional hardship to the applicant.

(3) A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in this chapter; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.

(4) A determination that the structure or other development is protected by methods to minimize flood damages.

(5) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(f) Upon consideration of the above factors and the purposes of this chapter, the Appeals Board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of this chapter.

(g) Other conditions for variances:

(1) Variances shall not be recommended by the Board of Zoning Appeals within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Generally, variances may be recommended by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in divisions (d)(1) to (11) hereof have been fully considered. As the lot size increases beyond one-half (1/2) acre, the technical justification required for issuing the variance increases.

(3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(h) All other procedures and conditions for the hearing and granting of appeals and requests for variances not otherwise provided for in this section shall be governed by the
provisions contained in Chapter 1197.

   (i) The Board of Zoning Appeals shall prepare findings of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing. Any recommendations made by the Board of Zoning Appeals for the granting of an appeal or variance shall be subject to the review and approval of City Council in accordance with Article V, Section 7 of the Brecksville City Charter. The decision of City Council shall be final.

(Ord. 4314, passed 4-17-07)

§ 1159.19 ENFORCEMENT.

 (a) Compliance required.

   (1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of this chapter and all other applicable regulations which apply to uses within the jurisdiction of this chapter, unless specifically exempted from filing for a development permit as stated in § 1159.13(g).

   (2) Failure to obtain a floodplain development permit shall be a violation of this chapter and shall be punishable in accordance with § 1159.99.

   (3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of this chapter and punishable in accordance with § 1159.99.

 (b) Notice of violation. Whenever the Floodplain Administrator determines that there has been a violation of any provision of this chapter, he or she shall give notice of such violation to the person or other entity responsible therefore and order compliance with this chapter as hereinafter provided. Such notice and order shall:

   (1) Be put in writing on an appropriate form;

   (2) Include a list of violations, referring to the section or sections of this chapter that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of this chapter;

   (3) Specify a reasonable time for performance;
(4) Advise the owner, operator, or occupant of the right to appeal;

(5) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the property affected.

(Ord. 4314, passed 4-17-07)

§ 1159.99 PENALTY.

(a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his or her agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this chapter is guilty of a misdemeanor of the fourth degree for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The imposition of any other penalties provided herein shall not preclude the city instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this chapter or other applicable laws, ordinances, rules, or chapters, or the orders of the city.

(Ord. 4314, passed 4-17-07)

CHAPTER 1160: OIL AND GAS WELLS CONDITIONAL USE PERMITS

Section

1160.01 Permitted use in nonresidential areas
1160.02 Public hearing, notice
1160.03 Compliance with additional regulations

Cross-reference:

Oil and gas well regulations, see Ch. 1190
§ 1160.01 PERMITTED USE IN NONRESIDENTIAL AREAS.

Upon the report and findings of the Planning Commission, Council may permit the drilling of oil and gas wells, and the production incident thereto, as a conditional use in any zoning district except R-60, R-40, R-20, R-16, R-8, R-A, C-F or any other residential district, where such drilling of oil and gas wells is specifically prohibited, in accordance with the following provisions.

('64 Code, § 1160.01) (Ord. 2858, passed 2-3-87)

§ 1160.02 PUBLIC HEARING, NOTICE.

Prior to issuing its report and findings as provided in Chapter 1190, the Planning Commission shall conduct a public hearing upon all applications for a conditional use permit for the drilling of an oil and/or gas well. Such hearing and notice shall be in accordance with the provisions contained in § 1191.10(b) and any amendments made thereto.

('64 Code, § 1160.02) (Ord. 2858, passed 2-3-87)

§ 1160.03 COMPLIANCE WITH ADDITIONAL REGULATIONS.

All other aspects of the regulation of the drilling of oil and/or gas wells, and the production incident thereto, shall be in accordance with Chapter 1190 and any subsequent amendments made thereto.

('64 Code, § 1160.03) (Ord. 2858, passed 2-3-87)
Utilities

Chapter 1176  Tree Cutting
Chapter 1177  Illicit Discharge and Illegal Connection Control
Chapter 1179  Standards and Criteria for Planned Development Areas
Chapter 1181  Height District Regulations
Chapter 1183  Parking and Loading Facilities
Chapter 1185  Fences

Appendix A: Examples of Fences

Chapter 1186  Small Wind Energy Systems and Solar Energy Systems
Chapter 1187  Sign Regulations
Chapter 1189  Prohibited Uses

CHAPTER 1171: REQUIRED YARDS AND AREAS TO BE MAINTAINED

Section

1171.01 - 1171.10 [Reserved]
1171.11  Required lot area to be maintained; exceptions
1171.12  Required yards to be maintained
1171.13  Side yards of insufficient width

Cross-reference:

Lot, parcel and land definitions, see § 1113.14
Nonconforming lots, see § 1173.02
Yard and court definitions, see § 1113.26
Zoning Appeals Board jurisdiction to grant variances and exceptions, see §§ 1197.01, 1197.11, and 1197.42
§§ 1171.01 - 1171.10 [RESERVED].

§ 1171.11 REQUIRED LOT AREA TO BE MAINTAINED; EXCEPTIONS.

(a) A parcel of land may be subdivided into two (2) or more parcels, provided all lots resulting from such division shall conform to the relevant lot area and width regulations of the district in which it is located, unless the Board of Zoning Appeals grants the applicant a variance in accordance with the provisions contained in § 1197.11 of this chapter. A lot of record which conformed to the provisions of this Zoning Code and which was owned separately from adjoining lots on the effective date of this code (Ordinance 2042, passed December 20, 1972) or an amendment thereafter which affected its conformity, shall not be reduced in any manner which would make it nonconforming.

(b) The lot area or any part thereof required for a dwelling or other use shall not be considered as providing any part of the required lot area for another dwelling or use.

('64 Code, § 1171.11) (Ord. 2042, passed 12-20-72; Am. Ord. 3317, passed 10-5-93)

§ 1171.12 REQUIRED YARDS TO BE MAINTAINED.

The required yards surrounding an existing building shall not be separated in ownership from that portion of the lot upon which the building is located, and no part shall be considered as providing a required yard for any other existing building on the same or on an adjacent lot. A yard shall not be reduced to less than the required dimensions for the district in which it is located by enlarging an existing building, and a yard of less than the required dimensions shall not be further reduced in any manner. Every required yard shall be open and unobstructed from the ground upward except for accessory buildings as set forth in § 1151.34 and permitted projections as set forth in § 1151.39.

('64 Code, § 1171.12) (Ord. 2042, passed 12-20-72)

§ 1171.13 SIDE YARDS OF INSUFFICIENT WIDTH.

Where side yards are narrower than required for the district in which the building and lot are located and which was owned separately from all other tracts of land on the effective date of
CHAPTER 1173: NONCONFORMING USES AND LOTS

Section

1173.01 Intent
1173.02 Nonconforming lots
1173.03 Nonconforming buildings
1173.04 Nonconforming use of buildings
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1173.06 Nonconforming utilities
1173.07 Nonconforming due to amendments

Cross-reference:

Certificate of occupancy required for change in use of nonconforming buildings or land, see § 1191.12(a)(3)

Modifications of parking and loading requirements, see § 1183.06

Nonconforming buildings, land and use defined, see § 1113.17

Prohibited uses, see Ch. 1189

Zoning Appeals Board has power to grant variances or exceptions, see § 1197.01 or § 1197.42

§ 1173.01 INTENT.

Regulations for the continuance, maintenance, repair, restoring, moving and discontinuance of nonconforming buildings, land and uses are hereby established in order to achieve, among others, the following purposes:

(a) To permit the continuance but control of nonconformity so as to minimize any adverse affect on the adjoining properties and development;
(b) To regulate their maintenance, repair and extension;

(c) To permit changes in degree of nonconformity only to a more restrictive classification;

(d) To restrict their rebuilding if substantially destroyed;

(e) To require their permanent discontinuance if not operated for certain periods; and

(f) To require conformity if it is discontinued, and to bring about eventual conformity in accordance with the objectives of the Master Plan of the city.

('64 Code, § 1173.01) (Ord. 2042, passed 12-20-72)

§ 1173.02 NONCONFORMING LOTS.

NONCONFORMING LOT means a lot of record which does not comply with the area or width of lot regulations of the district in which it is located on the effective date of this Zoning Code (Ordinance 2042, passed December 20, 1972) or any amendment thereto which made it a nonconforming lot may be used as follows:

(a) Building on lot. If occupied by a building, such building may be maintained, repaired or altered, provided, however, the building may not be enlarged in floor area unless the depth of front yard, total width of side yards and the rear yard regulations are complied with.

(b) Vacant lot. If vacant, the lot may be used only as a site for the uses permitted in the district in which it is located provided that:

(1) No adjoining unsubdivided lot or parcel of land was owned by the same owner on the effective date of this Zoning Code (December 20, 1972).

(2) All yards and other regulations of this Zoning Code, except the lot area and lot width regulations, shall be complied with.

(c) Variance. If replatting of adjoining nonconforming lots cannot be effected reasonably without resulting in an average lot width less than the minimum required for the district, the regulations may be modified as a variance to permit lots of less width, but not more than ten percent (10%) less than required in the district in which the subdivision is located.

('64 Code, § 1173.02) (Ord. 2042, passed 12-20-72; Am. Ord. 2116, passed 8-20-74)
§ 1173.03 NONCONFORMING BUILDINGS.

**NONCONFORMING BUILDING** means a building or other structure existing lawfully at the time this Zoning Code (Ordinance 2042, passed December 20, 1972) or any subsequent amendment thereto, became effective but which does not conform as to dimensions, area and width of lot, width of yards, percent of land coverage, or height of building, or as to design, designed or intended for a use not permitted or compatible with the type of structure, or other regulations of the district in which it is located. A nonconforming building may be continued as follows:

(a) Maintenance and repair. A building nonconforming as to dimensions and/or design may be continued to be used and normal repairs and improvements may be made. For the purpose of this Code, normal repairs includes the ordinary maintenance of a building or structure and the replacement of equipment which are required for safety of operation, and the replacement or substitutions of machinery or equipment. It shall not include the replacement of structural parts in any building nonconforming as to design except when required by law to restore the structure to a safe condition, or to make the building or use conforming.

(b) Additions. A building nonconforming as to dimensions, as defined above, may be added to or enlarged, provided the additions are made to conform to the area, yard and height regulations of the district in which it is located.

(c) Moving. A building nonconforming as to dimension and/or design may be moved in whole or in part to any other location on the lot or to another lot, provided every portion of such building so moved is made to conform to all regulations of the district in which it is to be located.

(d) Restoration of damaged building. If a nonconforming building is damaged or destroyed by any means to the extent of fifty percent (50%) or less of its reproduction value, those portions so destroyed or damaged may be restored but to not more than its former size, provided such restoration is completed within a period of one (1) year from the date of damage or destruction. If such a building is occupied by a nonconforming use prior to damage such use may be re-established.

(1) If a building nonconforming as to dimension only is damaged or destroyed more than fifty percent (50%) of its reproduction value, it may only be restored or rebuilt in conformance with all the yard, percent of coverage and height regulations of the district in which it is located.

(2) If a building nonconforming as to design is damaged or destroyed more than fifty percent (50%) of its reproduction value, no repairing or reconstruction shall be made
unless every portion of the building is made to conform to regulations of the district in which the building is located and it may be occupied only by a conforming use.

(3) Determination of the reproduction value shall be made by three (3) practicing building construction contractors, one (1) to be appointed by the owner, one (1) to be appointed by the city and the third to be selected by the mutual consent of the two (2) parties.

(e) Discontinuance of use. If any nonconforming building or portion thereof is not occupied by a use for a continuous period of at least six (6) months, the nonconforming building, or nonconforming portion thereof, shall be reconstructed to comply with this Zoning Code.

('64 Code, § 1173.03) (Ord. 2042, passed 12-20-72; Am. Ord. 3850, passed 1-16-01)

§ 1173.04 NONCONFORMING USE OF BUILDINGS.

NONCONFORMING USE OF A BUILDING means the use of a building existing lawfully at the time this Zoning Code (Ordinance 2042, passed December 20, 1972) or any amendment thereto became effective, but which did not conform to the use, advertising sign, parking or loading regulations of the district in which it is located. Any nonconforming use of a building may be continued only under the following conditions:

(a) Change of use. The nonconforming use of a building may be changed only to a conforming use. It may be changed to a use classified as a more restricted use, if approved by the Planning Commission after a public hearing. Thereafter, it shall not be changed back to the former nonconforming use. For this purpose, the districts shall be considered as ranked in order of most to least restrictive, as set forth in § 1135.01.

(b) Expansion of use. The nonconforming use of part of a building may only be expanded or extended throughout the floor on which such use prevailed at the time such use became nonconforming, and no change or structural alterations shall be made except if such changes and the use thereof comply with this Zoning Code.

(c) Discontinuance of use. If any nonconforming use within a building or portion thereof is discontinued for a continuous period of six (6) months, any future use of such building or portion thereof so discontinued shall comply with this Zoning Code.

(d) Nonconforming signs. A nonconforming sign shall be regulated as set forth in § 1187.22 and hereinafter any lawful nonconforming sign may be maintained and structural or electrical parts may be repaired or restored to a safe condition only if required by law. Otherwise, a nonconforming sign shall not be altered or moved unless it is made to comply with this Zoning Code, and if any sign or part thereof is damaged, destroyed to more than fifty percent (50%) of its reproduction value or taken down it shall not be rebuilt or relocated unless made to
comply with the regulations of the district in which it is located.

Any sign, including its structural and supporting members, nonconforming under this Zoning Code shall be discontinued within five (5) years after the date of enactment of this Code (Ordinance 2042, passed December 20, 1972).

(e) Nonconforming parking facilities. A building or use existing lawfully at the time this Zoning Code (Ordinance 2042, passed December 20, 1972) or any amendment thereto, became effective, but which does not conform with the off-street parking or off-street loading regulations, may be occupied by the existing use without such parking and/or loading facilities being provided, however, any parking spaces that may be provided thereafter shall comply with the regulations set forth in Chapter 1183. Furthermore, if the existing building is altered so that there is an increase in the number of dwelling units, seating capacity or floor area, or if the use is changed to a use requiring more off-street facilities, then off-street parking and loading facilities shall be provided at least equal to the number of spaces required for the entire building or use in accordance with all provisions of Chapter 1183.

(f) Nonconforming use; performance standards. Any use established and conforming before the effective date of this Zoning Code (Ordinance 2042, passed December 20, 1972) and nonconforming as to one (1) or more of the performance standards established for research and industrial operations in § 1157.11 shall be required to conform thereto within two (2) years.

('64 Code, § 1173.04) (Ord. 2042, passed 12-20-72; Am. Ord. 3850, passed 1-16-01)

§ 1173.05 NONCONFORMING USE OF LAND.

NONCONFORMING USE OF LAND means any lot or parcel of land, nonconforming as to use or dimension existing lawfully at the time this Zoning Code (Ordinance 2042, passed December 20, 1972) or any amendment thereto became effective but which does not conform with the use and/or dimension regulations of the district in which it is located. Any nonconforming use of land may be continued under the following conditions:

(a) Change of use. The nonconforming use of land shall not be changed except to any other use which complies with this Zoning Code.

(b) Expansion of use. The use of a lot or part thereof nonconforming as to use shall not be expanded or extended.

(c) Discontinuance of use. If any lot or part thereof nonconforming as to use is discontinued for a continuous period of at least six (6) months, any future use of such lot or part
§ 1173.06 NONCONFORMING UTILITIES.

Overhead communication, electric power and street lighting wires, conduit or cables and transformer systems shall be nonconforming under this Zoning Code, and may be relocated, repaired or rebuilt only in accordance with Chapter 1119 of the Subdivision Regulations and § 1175.09 of this Zoning Code.

('64 Code, § 1173.06) (Ord. 2042, passed 12-20-72)

§ 1173.07 NONCONFORMING DUE TO AMENDMENTS.

The foregoing provisions of this chapter shall also apply to buildings, structures, land or other uses hereafter becoming nonconforming as a result of future reclassification of districts or of other amendments made to this Zoning Code.

('64 Code, § 1173.07) (Ord. 2042, passed 12-20-72)

CHAPTER 1175: SOIL REMOVAL, DRAINAGE COURSES, TEMPORARY BUILDINGS AND UTILITIES

Section

1175.01 Soil removal
1175.02 [Reserved]
1175.03 Drainage course protection
1175.04 [Reserved]
1175.05 Erosion, sediment and vegetation control measures
1175.06 [Reserved]
1175.07 Temporary buildings and enclosures
1175.08 [Reserved]
1175.09 Location of utilities
Cross-reference:

Buildings and structures defined, see § 1113.06
Flood Plain District, see Ch. 1159
Nonconforming utilities, see § 1173.06
Storm water management, see Ch. 1331
Trailer definitions, see § 1113.23

§ 1175.01 SOIL REMOVAL.

Soil, sand or gravel shall not be stripped or removed in any district, except excess soil, sand or gravel resulting from excavations or grading operations in connection with the construction or alteration or a building or other improvement for which a building permit has been issued, and only in accord with the requirements of § 1175.05.

('64 Code, § 1175.01) (Ord. 2042, passed 12-20-72)

§ 1175.02 [RESERVED].

§ 1175.03 DRAINAGE COURSE PROTECTION.

(a) No building or structure shall be erected within any area herein described as a drainage course. For the purpose of this Zoning Code, a drainage course shall include any area such as drainage channels, streams and creeks, designed or intended for use for drainage purposes as shown in a recorded subdivision.

(b) No filling of land or excavation of land shall be permitted within a drainage course, or on any lands within 100 feet, or more than 100 feet when so designated on the Zone Map, of the center line of such drainage course, except upon issuance of a certificate by the City Engineer that such filling, drainage detainment, dam or artificial lake will not obstruct the flow of water or otherwise reduce the water-carrying capacity of such drainage course or impair the design and character of such drainage course.

('64 Code, § 1175.03) (Ord. 2042, passed 12-20-72)
§ 1175.04 [RESERVED].

§ 1175.05 EROSION, SEDIMENT AND VEGETATION CONTROL MEASURES.

(a) Purpose and procedures. Every person, firm or corporation who proposes to:

1. Improve land by the construction or erection of a building or by structures of any kind, or by the construction, installation and maintenance of a sanitary and/or storm sewers, or by any other type of improvement to land; or

2. Change the contours of land by grading, excavating; or

3. Remove, destroy or change the natural topsoil, vegetation or trees, hereinafter these described purposes shall be referred to as improvements, shall submit to the Building Commission preliminary plans, including maps generally describing the proposed improvements. Upon finding that erosion, sediment control or measures to protect, improve or control change to vegetation or trees are not necessary, the Commissioner shall grant the necessary permit. In the event that the Commissioner finds that the proposed improvements may result in erosion, siltation and/or change of vegetation or trees of the site or adjoining property or property in the immediate area, he shall, within three days of receipt of such plans and maps, inform such person, firm or corporation, of his findings, and that such person, firm or corporation shall submit to the Planning Commission three copies of plans, consisting of maps and a description of the premises, setting forth the proposed improvements, together with the report of the Cuyahoga Soil and Water Conservation District, hereinafter referred to as the Conservation District, providing for erosion and sediment control measures.

(b) Report and plans. The report and plans required by this section shall include but not be restricted to the following matters:

1. The areas of the described premises that may be exposed at any one time.

2. The type of temporary vegetation and/or mulching to be used to protect exposed areas of the described premises during:

   A. The construction of any type of improvements thereon; or
   
   B. Changes being made in the contours thereof; or
   
   C. In removal or destruction of topsoil.
(3) The locations, construction and maintenance of sediment basins, or other control measures to be constructed and maintained on the described premises.

(4) Description of existing natural or permanent vegetation and plant material, including specific varieties and approximate height and trunk size of trees, and their spacing or distribution.

(5) Description of all natural or permanent vegetation, plant material and trees proposed to be altered, destroyed, removed, affected or influenced by changes in grades, soils, elevations, drainage or other actions.

(6) The type of permanent and final vegetation and structures to be planted and installed on the described premises and the time within which such vegetation and structures are to be planted and installed, including:
   A. Individual and mass plantings with true scientific names;
   B. Size of the plant material of the initial planting; and
   C. Spacing of the plants.

(7) Description of the type of the soil comprising the described premises and the physical properties of each type.

(8) Description of the soil comprising the area immediately adjacent and within the general vicinity of the described premises, and the physical properties thereof.

(c) Submission of report. The report submitted to the Planning Commission pursuant to this section, shall incorporate the appropriate recommendations of the Conservation District, provided, however, if any of the recommendations of the Conservation District are not incorporated into the submitted plans, the person, firm or corporation, or its agent, shall set forth the reason for not incorporating any of the Conservation District recommendations.

(d) Supplemental regulations.

(1) Any trees planted as street trees shall have a minimum seven-foot branching height.

(2) No newly planted street trees shall be less than two-inch caliper.

(3) Approval must be granted as per procedures of § 1191.10 before removing or destroying any live trees of more than four-inch caliper from undeveloped areas, undeveloped areas of lots and/or for preparation of a building or development site. The conditions under which approval may be granted shall be replacement with trees of similar or larger size, or substantial planting or revegetation determined by the Commission or Building Commissioner to
be effective in controlling erosion, sedimentation, ground water protection and runoff.

(4) Except where unavoidable, grading for building site preparation, street and sidewalk construction and utilities construction shall be prohibited.

(5) Grading and building site preparation shall employ the principle of no more than half-cut and/or half-fill where permitted, and where soils, geological and other conditions permit.

(6) A bond and agreement with the city shall be furnished as per the requirements of § 1119.15 covering the purchase, installation and maintenance of all trees and landscape plantings required for development and building sites through two growing seasons. Release of bond shall be contingent upon final inspection and acceptance by the Building Commissioner not more than 30 days before the end of the two-year period and following written notice to the Commissioner requesting inspection. At the time of inspection, all trees and landscape planting shall be in a thriving and uniform condition.

(e) **Commission action.** Within five days from the date the plan required in this section has been submitted to the Planning Commission, it shall rule whether a public hearing shall be held to hear the proponents of the proposed improvement. If the Commission should so rule, one copy of the plan shall be made available to the general public for its inspection, and within 30 days from the date of submission of the plan, the Commission shall conduct a public hearing and make its recommendations to Council. If a public hearing is deemed not to be necessary, the Commission shall make its findings and recommendations to Council within 14 days from receipt of the plan.

(f) **Council action.** Upon approval by Council of the plan as submitted, or amended, the Building Commissioner shall issue the necessary permits and immediately thereafter, file one copy of such plan, as approved by Council, with the Conservation District. The Commissioner shall be responsible for the administration of such approved plan, as approved by Council, and if he finds that any of the provisions of the approved plan are not being complied with or performed, the permit shall be revoked until such time as he is assured that steps have been taken to comply with each of the provisions of the plan.

(’64 Code, § 1175.05) (Ord. 2042, passed 12-20-72)

§ 1175.06 [RESERVED].
§ 1175.07 TEMPORARY BUILDINGS AND ENCLOSURES.

(a) Permitted buildings and uses. Temporary structures or trailers may be permitted in any district if such are deemed necessary for construction operations of the main and accessory buildings for the area for which a building permit has been issued, provided:

(1) Such structures or trailers shall be limited to offices, yards and buildings for the storage of building materials, equipment and workshops for prefabricating building components;

(2) The operations and activities carried on within such structures or trailers shall not adversely affect the use of nearby dwellings by reason of noise, smoke, dust, odors, fumes, vibrations, electrical disturbances or glare to a greater extent than normal in a residential district that is being developed;

(3) The hours of operation shall be restricted to the hours between 8:00 a.m. to 6:00 p.m. and the concentration of vehicles attracted to the premises in connection with such use will not be more hazardous than normal traffic in a residential district that is being developed;

(4) All temporary structures or trailers shall be located at least 100 feet from the nearest occupied residential dwelling;

(5) All structures and yard storage areas shall be enclosed by a fence; and

(6) A conditional use permit has been applied for such temporary structures or trailers and approved along with special conditions that may be required in accordance with the provisions of § 1191.10.

(b) Removal of structures. All temporary structures, trailers and construction material shall be removed within 30 days after the completion of work on the premise for which a permit has been issued or if construction is not pursued diligently.

('64 Code, § 1175.07) (Ord. 2042, passed 12-20-72)

§ 1175.08 [RESERVED].
§ 1175.09 LOCATION OF UTILITIES.

(a) Public utility uses and distributing equipment for a public utility, if essential in a district, shall be permitted in any zoning district.

(b) All new or relocated communication, electric power and street lighting wires, conduit or cables and transformers shall be installed underground in accordance with the standards required in Administrative Order No. 72 and other applicable regulations of the Public Utilities Commission of Ohio and as may be further specified in Chapters 1119 and 1173 and other applicable sections of this Zoning Code.

(c) Where such public utility uses are proposed to be located across unplatted lands, such uses may be allowed subject to the issuance of conditional use permits in accordance with the provisions of § 1191.10.

(d) The regulations herein governing lot size shall not apply to any lot designed or intended for a public utility and public service use when such lot size shall be deemed appropriate for such use by the Planning Commission, provided, however, that all structures shall be so located as to conform with the minimum yard dimensions set forth for a building in the district in which the structure is located.

('64 Code, § 1175.09) (Ord. 2042, passed 12-20-72)

CHAPTER 1176: TREE CUTTING

Section

1176.01 Definitions
1176.02 Permit required
1176.03 Permit application
1176.04 Permit conditions
1176.05 Bond
1176.99 Penalty

Cross-reference:

Criminal mischief, see § 541.04

Tree destruction, see § 541.06
§ 1176.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CLEARCUTTING.** The removal of trees and other vegetation from a site in preparation of the development of same.

**TIMBERING, LOGGING OR COMMERCIAL CUTTING.** The cutting of trees bearing a trunk diameter of not less than nine inches measured at a distance of 14 inches above ground level.

(‘64 Code, § 1176.01)  (Ord. 2580, passed 4-20-82)

§ 1176.02 PERMIT REQUIRED.

No property owner, lessee, agent, employee, corporation or person shall offer for sale, sell, cut, timber, log or clearcut any trees from any property located within the city without first obtaining a permit from the Building Commissioner. This chapter shall only be applicable to the commercial timbering, cutting, clearcutting and/or selling of trees.

(‘64 Code, § 1176.02)  (Ord. 2580, passed 4-20-82)  Penalty, see § 1176.99

§ 1176.03 PERMIT APPLICATION.

The application for such permit shall be in writing and shall set forth and be accompanied by the following:

(a) The name and address of each owner of the premises upon which the timbering operation shall occur.

(b) The name and address of the party who shall undertake the timbering operation.

(c) A detailed plan or sketch of the area to be timbered or clearcut.

(d) A legal description of the property.

(e) A topographical survey map of the property.
§ 1176.03 PERMIT REQUIREMENTS.

The permit requirements for permits shall be as follows:

(a) A detailed plan outlining erosion control measures, sedimentation control, clean-up procedures and after care.

(b) A nonrefundable certified check in the amount of $250.

(c) A cash or surety bond in the form as approved by the Law Director, in favor of the city, in the amount of $25,000.

(64 Code, § 1176.03) (Ord. 2580, passed 4-20-82; Am. Ord. 3504, passed 5-21-96)

§ 1176.04 PERMIT CONDITIONS.

The conditions under which permits shall be issued under this chapter are as follows:

(a) The Building Commissioner shall be required to submit the detailed plan and sketch, and the application for the permit to the United States Department of Agriculture, Soil and Conservation Service for their review, and request from them a report and recommendation as to the potential risks and necessary protections against soil erosion, stream siltation and the necessary after-care measures to be undertaken; and such recommendations from the Soil and Conservation Service shall be attached to the permit, if granted, and the entity undertaking the timbering of trees shall comply with the recommendations contained therein.

(b) The Building Commissioner shall not issue a permit in any case where such timbering of trees would result in undue erosion or undue stream siltation or where contiguous or adjacent properties would be adversely affected.

(c) The Building Commissioner shall not issue a permit unless and until adequate assurance is furnished by the applicant that in the event a permit is granted and such timbering is done, all of the cordwood, branches, brush, rubble and refuse resulting therefrom shall be removed from the premises or cut up, chipped or mulched and placed on the forest floor in such a way that no fire hazard shall result therefrom.

(d) The Building Commissioner shall not issue a permit for clearcutting operations unless there has been compliance with the provisions contained in Chapter 1175 and adopted by reference in Chapter 1331 of the codified ordinances of the city.

(e) The Building Commissioner shall, if a permit is granted, specify the hours of operation that timbering may be conducted, designate the streets, if any, the applicant may use to haul timber on and provide for such other controls such as the prevention of mud on streets so as to insure a clean and safe timbering operation.

(f) The Building Commissioner shall attach any additional conditions to the permit,
if granted, which are reasonable and protect the general health, peace, safety and welfare of the citizens of the city.

('64 Code, § 1176.04) (Ord. 2580, passed 4-20-82) Penalty, see § 1176.99

§ 1176.05 BOND.

(a) The bond specified in § 1176.03(h) shall be signed by the owner of the premises upon which the timbering is to be conducted and each of the persons or other legal entities with whom arrangements have been made for the timbering of trees.

(b) The bond shall not be returned or released until such time as all provisions of this chapter and all conditions of the permit have been satisfactorily complied with, including but not limited to clean-up operations and erosion control measures.

('64 Code, § 1176.05) (Ord. 2580, passed 4-20-82)

§ 1176.99 PENALTY.

(a) Any person or partnership violating any of the provisions of this chapter shall be guilty of a misdemeanor of the third degree.

(b) Any company or corporation violating any of the provisions of this chapter shall be fined not more than $3,000.

(c) A separate offense shall be deemed committed on each day during or on which a violation of this chapter occurs or continues.

('64 Code, § 1176.99) (Ord. 2580, passed 4-20-82)

CHAPTER 1177: ILLICIT DISCHARGE AND ILLEGAL CONNECTION CONTROL

Section

1177.01 Purpose and scope
1177.02 Applicability
§ 1177.01 PURPOSE AND SCOPE.

The purpose of the regulations contained in this chapter is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of illicit discharges to the municipal separate storm sewer system (MS4). This chapter establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process as required by the Ohio Environmental Protection Agency (Ohio EPA). The objectives of this chapter are as follows:

(a) To prohibit illicit discharges and illegal connections to the MS4.
(b) To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this chapter.

(Ord. 4301, passed 3-6-07)

§ 1177.02 APPLICABILITY.

This chapter shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and on any lands in the city, except for those discharges generated by the activities detailed in § 1177.07(a)(1) to (a)(3).

(Ord. 4301, passed 3-6-07)

§ 1177.03 DEFINITIONS.

The words and terms used in this chapter, unless otherwise expressly stated, shall have
the following meaning:

**BEST MANAGEMENT PRACTICES (BMPS).** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to storm water. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

**COMMUNITY.** The City of Brecksville, its designated representatives, boards, and commissions.

**ENVIRONMENTAL PROTECTION AGENCY** or **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA).** The United States Environmental Protection Agency, including but not limited to the Ohio Environmental Protection Agency (Ohio EPA), or any duly authorized official of said agency.

**FLOATABLE MATERIAL.** In general this term means any foreign matter that may float or remain suspended in the water column, and includes but is not limited to, plastic, aluminum cans, wood products, bottles, and paper products.

**HAZARDOUS MATERIAL.** Any material including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**ILICIT DISCHARGE.** As defined at 40 C.F.R. 122.26 (b)(2) means any discharge to an MS4 that is not composed entirely of storm water, except for those discharges to an MS4 pursuant to a NPDES permit or noted in § 1177.07.

**ILLEGAL CONNECTION.** Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4).** As defined at 40 C.F.R. 122.26 (b)(8), municipal separate storm sewer system means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. Owned or operated by a state, city, town, borough, county, parish, district, municipality, township, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over sewage, industrial wastes, including special districts under state law such as a sewer district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the
Clean Water Act that discharges to waters of the United States;

(2) Designed or used for collecting or conveying storm water;

(3) Which is not a combined sewer; and

(4) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. 122.2.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT.** A permit issued by the EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**OFF-LOT DISCHARGING HOME SEWAGE TREATMENT SYSTEM.** A system designed to treat home sewage on-site and discharges treated wastewater effluent off the property into a storm water or surface water conveyance or system.

**OWNER/OPERATOR.** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on the owner's behalf.

**POLLUTANT.** Anything that causes or contributes to pollution. **POLLUTANTS** may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.

**STORM WATER.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**WASTEWATER.** The spent water of a community. From the standpoint of a source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.

(Ord. 4301, passed 3-6-07)

**§ 1177.04 DISCLAIMER OF LIABILITY.**

Compliance with the provisions of this chapter shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this
chapter are promulgated to promote the health, safety, and welfare of the public and are not
designed for the benefit of any individual or for the benefit of any particular parcel of property.
(Ord. 4301, passed 3-6-07)

§ 1177.05 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

(a) Where any provision contained in this chapter is in conflict with other provisions
of law or ordinance, the most restrictive provision, as determined by the city, shall prevail.

(b) If any clause, section, or provision contained in this chapter is declared invalid or
unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be
affected thereby.

(c) This chapter shall not be construed as authorizing any person to maintain a
nuisance on their property, and compliance with the provisions of this chapter shall not be a
defense in any action to abate such a nuisance.

(d) Failure of the city to observe or recognize hazardous or unsightly conditions or to
recommend corrective measures shall not relieve the site owner from the responsibility for the
condition or damage resulting therefrom, and shall not result in the city, its officers, employees,
or agents being responsible for any condition or damage resulting therefrom.

(Ord. 4301, passed 3-6-07)

§ 1177.06 RESPONSIBILITY FOR ADMINISTRATION.

The city shall administer, implement, and enforce the provisions of this chapter. The city
may contract with the Cuyahoga County Board of Health to conduct inspections and monitoring
and to assist with enforcement actions related to this chapter.

(Ord. 4301, passed 3-6-07)

§ 1177.07 DISCHARGE AND CONNECTION PROHIBITIONS.

(a) Prohibition of illicit discharges. No person shall discharge, or cause to be
discharged, an illicit discharge into the MS4. The commencement, conduct, or continuance of
any illicit discharge to the MS4 is prohibited except as described below:

(1) Water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensate; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and discharges or flows from fire fighting activities. These discharges are exempt until such time as they are determined by the city to be significant contributors of pollutants to the MS4.

(2) Discharges specified in writing by the city as being necessary to protect public health and safety.

(3) Discharges from off-lot household sewage treatment systems permitted by the Cuyahoga County Board of Health for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29-02(6) until such time as the Ohio Environmental Protection Agency issues a NPDES permitting mechanism for residential one (1), two (2), or three (3) family dwellings. These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the Cuyahoga County Board of Health.

(4) In compliance with the city Storm Water Management Program, discharges from all off-lot household sewage treatment systems must either be eliminated or have coverage under an appropriate NPDES permit issued and approved by the Ohio Environmental Protection Agency. When such permit coverage is available, discharges from off-lot discharging household sewage treatment systems will no longer be exempt from the requirements of this chapter.

(b) Prohibition of illegal connections. The construction, use, maintenance, or continued existence of illegal connections to the MS4 is prohibited.

(1) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(2) A person is considered to be in violation of this chapter if the person connects a line conveying illicit discharges to the MS4, or allows such a connection to continue.

(Ord. 4301, passed 3-6-07) Penalty, see § 1177.99

§ 1177.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL
CONNECTIONS.

(a) *Establishment of an illicit discharge and illegal connection monitoring program.* The city shall establish a program to detect and eliminate illicit discharges and illegal connections to the MS4. This program shall include the mapping of the MS4, including MS4 outfalls and home sewage treatment systems; the routine inspection of storm water outfalls to the MS4, and the systematic investigation of potential residential, commercial, industrial, and institutional facilities for the sources of any dry weather flows found as the result of these inspections.

(b) *Inspection of residential, commercial, industrial, or institutional facilities.*

(1) The city shall be permitted to enter and inspect facilities subject to this chapter as often as may be necessary to determine compliance with this chapter.

(2) The city shall have the right to set up at facilities subject to this chapter such devices as are necessary to conduct monitoring and/or sampling of the facility's storm water discharge, as determined by the city.

(3) The city shall have the right to require the facility owner/operator to install monitoring equipment as necessary. This sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the facility owner/operator at the owner/operator's expense. All devices used to measure storm water flow and quality shall be calibrated by the city to ensure their accuracy.

(4) Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or sampled shall be promptly removed by the facility's owner/operator at the written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the facility owner/operator.

(5) Unreasonable delays in allowing the city access to a facility subject to this chapter for the purposes of illicit discharge inspection is a violation of this chapter.

(6) If the city is refused access to any part of the facility from which storm water is discharged, and the city demonstrates probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the public health, safety, and welfare, the city may seek issuance of a search warrant, civil remedies including but not limited to injunctive relief, and/or criminal remedies from any court of appropriate jurisdiction.

(7) Any costs associated with these inspections shall be assessed to the facility owner/operator.
§ 1177.09 ENFORCEMENT.

(a) Notice of violation. When the city finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the city may order compliance by written notice of violation. Such notice must specify the violation and shall be hand delivered, and/or sent by registered mail, to the owner/operator of the facility. Such notice may require the following actions:

(1) The performance of monitoring, analyses, and reporting;
(2) The elimination of illicit discharges or illegal connections;
(3) That violating discharges, practices, or operations cease and desist;
(4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and/or
(5) The implementation of source control or treatment BMPs.

(b) If abatement of a violation and/or restoration of affected property is required, the notice of violation shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the facility owner/operator fail to remediate or restore within the established deadline, a legal action for enforcement may be initiated.

(c) Any person receiving a notice of violation must meet compliance standards within the time established in the notice of violation.

(d) Administrative hearing. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, the city shall schedule an administrative hearing to be conducted before the Director of Public Safety to determine reasons for non-compliance and to determine the next enforcement activity against the owner/operator of the facility. Notice of the administrative hearing shall be hand delivered and/or sent registered mail to the owner/operator of the facility.

(e) Appeal to the Board of Zoning Appeals. The Board of Zoning Appeals may grant a variance to the regulations contained in this chapter as provided herein. In granting a variance under this chapter, the Board of Zoning Appeals, for good cause, may impose such conditions that it deems appropriate to maintain the purposes of this chapter.

(1) Procedures for variances and appeals. Any applicant seeking a variance to
the conditions imposed under this chapter or an appeal to an administrative decision made under this chapter, other than a decision by the Board of Zoning Appeals, may apply to or appeal to the Board of Zoning Appeals. The following conditions shall apply:

A. When filing an application for an appeal to the Board of Zoning Appeals from any orders, decisions, and determinations by the Building Commissioner, City Engineer and any other city administrative officer, board or commission, with respect to the application or enforcement of the provisions contained in this chapter, the applicant shall file a notice of appeal specifying the grounds therefor with the Building Department within ten (10) days of the Building Commissioner's, City Engineer's or any other city administrative officer, board or commission's order, decision or determination. Upon determining that the application is complete and upon receipt of the required fee as provided by City Council for appeals to the Board of Zoning Appeals, the Building Department shall transmit to the Board of Zoning Appeals the application and a transcript constituting the record from which the order, decision or determination subject to appeal was based. This matter shall be placed before the Board of Zoning Appeals and heard in accordance with the provisions contained in Chapter 1197 of the Zoning Code.

B. Applications for appeals or variances made under these regulations shall contain the following information:

1. The name, address, and telephone number of the applicant;
2. Proof of ownership or authorization to represent the owner/operator of the facility;
3. The location of the facility, including street address and permanent parcel number;
4. A description of the administrative order, decision or determination being appealed or the conditions of the regulation from which a variance is sought.

C. Applications for variances or appeals of administrative orders, decisions or determinations shall not be resubmitted to the Board of Zoning Appeals unless, prior to the decision being made by the Board of Zoning Appeals, the applicant shows the Board of Zoning Appeals newly discovered evidence that could not have been presented with the original submission. The Board of Zoning Appeals may, at its sole and complete discretion, re-hear an appeal only if it finds specific evidence of a substantial change in circumstances of the same property has occurred since the time of the original submission.

D. All other procedures for the hearing and deciding of applications for variances or appeals not covered by this section shall be in accordance with the provisions
contained in Chapter 1197 of the Zoning Code.

E. A decision by the Board of Zoning Appeals in response to an application for a variance request or an appeal of an administrative order, decision or determination filed pursuant to this chapter shall be final.

(f) **Injunctive relief.** It shall be unlawful for any owner/operator to violate any provision or fail to comply with any of the requirements of this chapter or fail to comply with an order of the Cuyahoga County Board of Health pursuant to R.C. § 3709.211. If an owner/operator has violated or continues to violate the provisions of this chapter, the city may petition for a preliminary or permanent injunction restraining the owner/operator from activities that would create further violations or compelling the owner/operator to perform abatement or remediation of the violation.

(Ord. 4301, passed 3-6-07)

**§ 1177.10 REMEDIES NOT EXCLUSIVE.**

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is in the discretion of the city to seek cumulative remedies.

(Ord. 4301, passed 3-6-07)

**§ 1177.99 PENALTY.**

In addition to all of the remedies and enforcement procedures contained in this chapter, any person, firm, partnership, corporation, unincorporated association or other legal entity who shall violate any provision of this chapter shall be guilty of a misdemeanor of the fourth degree. A separate offense shall be deemed committed on each day during or on which a continuing violation occurs.

(Ord. 4301, passed 3-6-07)

**CHAPTER 1179: STANDARDS AND CRITERIA FOR**
§ 1179.01 APPLICATION.

(a) A planned development area (PDA) is a conditional use permitted in all one-family residential zoning districts pursuant to the schedule established in § 1151.04. In addition, planned development areas shall conform to the standards and regulations of this chapter, the procedures of Chapter 1195, and the provisions of the district regulations in which the planned development area is located, unless the regulation has been otherwise altered pursuant to this chapter.

(b) Planned development area shall be an area of development of a singularly planned project under one organization. Approval of a planned development area as a conditional use shall be requested by the organization responsible for the project; however, the planned development area may exist as a number of separate entities or a single consolidated entity. The planned development area shall be initially designed such that its construction, marketing and operation is feasible as a complete unit without dependence on any subsequent unit or section. A planned development area may be extended or amended with approval of the Commission and Council in accordance with the procedures for PDAs in Chapter 1195, provided it is developed in harmony with the balance of the development or group of contiguous planned development areas.

(c) Regulations for a planned development area contained in this chapter permit departure from the strict application of some standard provisions, such as dwelling density, yard requirements, lot areas, and street and sidewalk design, in order to encourage ingenuity and imagination in the planning, design and construction of proposed developments, yet provide
guidelines to assure a project is in keeping with the general land use intent and densities established in this Zoning Code or in any other adopted land use policy, including the city's Master Plan.

(Ord. 3443, approved by voters 11-7-95)

§ 1179.02 PURPOSE.

The purpose of this chapter is to encourage a comprehensive and planned approach to unified and coordinated project development by:

(a) Encouraging the utilization of planning criteria to permit a more flexible arrangement of buildings and related open space; to preserve and utilize topography, other site features and natural resources; to provide creative and coordinated designs and environment; and to maximize the utilization of land for the benefit, use, enjoyment and safety of present and future residents.

(b) Protecting the safety of landowners and the public by permitting design flexibility that allows a development to be adapted to the natural environment. By so doing, the possibility of landslides and the need for creating severe grades and escarpments by cut and fill, padding or terracing of building sites will be decreased.

(c) Controlling aesthetics without overly infringing on design freedom.

(d) Providing development density and land use incentives to aid in insuring the best possible development and preservation of the city's natural features, open space and other landmarks, so that they will be unified with the surrounding area.

(e) Encouraging the retention of natural topographic features such as drainage swales, streams, slopes, ridge lines, rock outcroppings, vistas, natural plant formations and trees to preserve and enhance the beauty of the landscape;

(f) Providing a system of criteria and policy sufficiently flexible so as to attain the benefits of development planning and, at the same time, limit the latitude of discretion so that a neighborhood may be certain as to the type of developments it may expect to have approved.

(g) Providing measures to prevent the loss of soil from areas during and after development. By so doing, erosion will be prevented which may block streets, culverts and storm sewers; fill pools, impoundments and stream channels; upset the biodynamic cycle of streams both mechanically and chemically to limit usage of water and kill marine life and cause flooding which contributes to personal harm and property damage.
§ 1179.03 PERMITTED USES.

(a) Planned development areas which have been established as conditional uses in accordance with the schedule established in § 1151.04 shall be limited to the primary uses, community and support facilities, and accessory uses set forth in the schedule established in division (c) below.

(b) Community support facilities shall be permitted only in conjunction with the primary activities in the planned development areas, as may be determined and approved by the Planning Commission.

(c) Schedule of permitted uses:

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>PRIMARY USES</th>
<th>COMMUNITY AND SUPPORT FACILITIES</th>
<th>ACCESSORY USES</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-60, R-40, R-30 &amp; R-20</td>
<td>Detached dwellings</td>
<td>Recreational facilities such as playgrounds, common open space, tennis courts (indoor and outdoor), swimming pools, community buildings, including nursery school and day care centers</td>
<td>Parking garages and off-street parking areas, signs, private gardens, walls and fences, home offices and occupations</td>
</tr>
<tr>
<td>R-16 &amp; R-8</td>
<td>Detached, semi-attached and attached dwellings</td>
<td>Same as in R-60, R-40, R-30 &amp; R-20</td>
<td>Same as in R-60, R-40, R-30 &amp; R-20</td>
</tr>
</tbody>
</table>

(Ord. 3443, approved by voters 11-7-95)

§ 1179.04 DEVELOPMENT AREA AND DENSITY.

Minimum site area and maximum permitted densities for a planned development area shall conform to the schedule established in division (e) below.
(a) **Minimum site area.** The gross area of a tract of land proposed as a planned development shall be not less than the minimum number of acres set forth in the schedule established in division (e) below for the district in which the planned development is located.

(b) **Ownership.** The entire tract of land to be developed for a planned development shall be considered one zoning lot, and shall be in one ownership or, if in several ownerships, the application shall be filed jointly by all the owners of the properties included in the project. Further subdivision of land within the planned development may be permitted in accordance with the requirements and procedures of Chapters 1121 and 1195. Any such subdivision of land including the proposed dimensions between buildings and between buildings and any subdivided lot lines shall be shown on the preliminary development plan.

(c) **Maximum permitted density.** The gross maximum residential density of a planned development shall not exceed the permitted number of dwelling units per acre set forth in the schedule established in division (e) below for the district in which the planned development is located. However, the maximum number of units may not always be achievable in compliance with Chapter 1179 because of the size, shape, or topography of the site or any other characteristics of the proposal. The total number of dwelling units permitted shall be calculated by multiplying the total land area by the number of dwelling units permitted per acre. Land area within public street rights-of-way existing at the time the development plan is submitted shall not be included in the total land area. However, any land area for local street rights-of-way proposed as part of the planned development may be included in determining the permitted density.

(d) **Maximum units on any one acre.** The number of dwelling units on a single acre shall not exceed the density set forth in the schedule established in division (e) below. The number of dwelling units on a single acre shall be determined by applying an imaginary square, approximately 209 feet by 209 feet, in any location on the site.

(e) **Schedule of minimum site area and maximum permitted density for planned development areas:**

<table>
<thead>
<tr>
<th>DISTRICT DESIGNATION</th>
<th>MINIMUM SITE AREA (acres)</th>
<th>GROSS MAXIMUM DENSITY (units per acre)</th>
<th>MAXIMUM UNITS ON ANY ONE ACRE</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-60</td>
<td>30</td>
<td>0.5</td>
<td>2</td>
</tr>
<tr>
<td>R-40</td>
<td>30</td>
<td>0.75</td>
<td>2</td>
</tr>
<tr>
<td>R-30</td>
<td>30</td>
<td>1.1</td>
<td>3</td>
</tr>
<tr>
<td>R-20</td>
<td>30</td>
<td>1.4</td>
<td>3</td>
</tr>
<tr>
<td>R-16</td>
<td>10</td>
<td>3.0</td>
<td>6</td>
</tr>
</tbody>
</table>
§ 1179.05 SITE DEVELOPMENT REGULATIONS.

(a) **Private yards.** Each dwelling unit shall have its own private yard of limited common outdoor living area contiguous to the dwelling unit at its own entrance and differentiated for that residence by approved patios, decks, screens, walls and landscaped plantings.

(b) **Development boundaries.** All buildings and accessory uses including parking areas shall comply with the setback standards set forth in the schedule established in division (f) below.

(c) **Building spacing.** In order to ensure adequate privacy for each dwelling unit, site design for the location of and spacing between buildings in a planned development shall be consistent with the objectives of this chapter and shall conform to the building spacing requirements set forth below. In addition to the maximum number of units on any one acre set forth in the schedule established in § 1179.04(e), the minimum spacing between buildings shall be determined by the types of walls facing each other and shall be the greater of distances required below.

1. When both of the two walls facing each other contain no windows or patios or decks, the two dwellings shall be separated by a minimum of 15 feet.

2. When one or both of the walls facing each other contain windows other than primary windows of living areas, the two dwellings shall be separated by a minimum of 30 feet.

3. When one or both of the walls facing each other contain primary windows of living areas or patios or decks, the two dwellings shall be separated by a minimum of 50 feet.

4. For the purposes of this section, the following terms shall be defined as follows:

**LIVING AREAS.** Shall include living rooms, family rooms, great rooms,
bedrooms and dining rooms.

**PRIMARY WINDOW.** Means any window in a living space having a sill height of 60 inches or less above the floor.

(5) The Planning Commission may consider the use of vision obscuring landscaping or other site, building or design feature provided between the mutually visible spaces as providing adequate privacy for each dwelling unit.

(d) **Building setbacks from interior streets and drives.** Dwellings shall be set back a minimum of 25 feet from proposed local public street rights-of-way and the pavement of proposed private streets and driveways serving four or more units.

(e) **Maximum number of units attached.** One-family attached dwellings shall be developed in sequences of not more than four dwelling units in an R-16 or R-8 District, provided:

(1) The horizontal length of such sequences of attached units shall not exceed 50 feet in an unbroken plane without an offset of 10 feet.

(2) The average width of each attached unit shall be not less than 25 feet.

(f) **Schedule of minimum building and parking setbacks from development boundaries and streets for planned development areas:**

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>Existing or Proposed Arterial/Collector Street</th>
<th>Existing Local Street</th>
<th>R-60, R-40, R-30, R-20 One-Family District</th>
<th>R-16, R-8, R-A and All Other Non-Residential Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-60</td>
<td>125</td>
<td>60</td>
<td>80 b</td>
<td>80</td>
</tr>
<tr>
<td>R-40</td>
<td>125</td>
<td>60</td>
<td>80 b</td>
<td>80</td>
</tr>
<tr>
<td>R-30</td>
<td>125</td>
<td>60</td>
<td>70 b</td>
<td>70</td>
</tr>
<tr>
<td>R-20</td>
<td>125</td>
<td>60</td>
<td>60 b</td>
<td>60</td>
</tr>
<tr>
<td>R-16</td>
<td>125</td>
<td>60</td>
<td>60 b or equal to the length of the wall a</td>
<td>40 or equal to ½ the length of the wall a</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>60 b</td>
<td>40</td>
</tr>
</tbody>
</table>
DISTRICT

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>Existing or Proposed Arterial/Collector Street</th>
<th>Existing Local Street</th>
<th>R-60, R-40, R-30, R-20 One-Family District</th>
<th>R-16, R-8, R-A and All Other Non-Residential Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-8</td>
<td>125</td>
<td>50</td>
<td>or equal to the length of the wall a</td>
<td>or equal to ½ the length of the wall a</td>
</tr>
</tbody>
</table>

a Whichever is the greatest setback requirement shall govern.

b Or a distance equal to the rear yard requirement of the residential district adjacent to the boundary line, whichever is greater.

(Ord. 3443, approved by voters 11-7-95)

§ 1179.06 REGULATIONS FOR ONE-FAMILY DETACHED DWELLINGS ON SEPARATELY OWNED PARCELS.

In a planned development, separately owned parcels for one-family detached dwelling units shall comply with the following:

(a) Any ownership arrangement, including fee simple lots, condominiums, and zero lot line parcels, shall comply with the spacing requirements of § 1179.05. Within any such sublot, the applicant shall depict the maximum parameters or building envelope which indicates where the buildings shall be located and demonstrates that such building locations will be in compliance with the spacing requirements of § 1179.05. Alternatively, if such building locations are not depicted on any such sublots, the Planning Commission may establish on the preliminary plan the appropriate minimum front, side and rear yard dimensions for each lot.

(b) The private yard provided for in § 1179.05(a) shall not be required to be included within any individually owned parcel.

(c) Any land area not delineated for individual ownership shall be considered to be common land, the ownership, management and maintenance of which shall be clearly set forth in the covenants and restrictions of the homeowners association or similar organizational structure, and subject to review and acceptance by the Law Director and approved by Council.

(Ord. 3443, approved by voters 11-7-95)
§ 1179.07 OPEN SPACE REQUIREMENTS.

The common open space, wherever possible, shall consist of interconnected areas throughout the development adjacent to all dwelling units, shall be of an area large enough to be suitable for the intended purposes of the area, and:

(a) A minimum of 20% of a planned development area shall be permanently preserved as common open space. Of all required open space, a minimum of 50% (or the equivalent of one acre for every ten acres in the proposed planned development area) shall have a slope less than 15%, be of such suitable size and shape, and be available for and designed for active and passive recreation purposes.

(b) Private yards, street rights-of-way, private drives, center island of streets, parking areas, required setbacks between the project boundary lines and buildings or parking areas, minimum spacing between buildings, landscaping in parking lots, and areas required for accessory uses shall not be included in determining the area of the minimum open space required. Land dedicated to public purpose and accepted by the city may, if recommended by the Planning Commission and approved by Council, be considered as part of the required open space.

(c) The continued maintenance and use for the purposes intended for the minimum required open space shall be assured through legally enforceable reservations and restrictions prepared by the applicant, reviewed and accepted by the Law Director, and approved by Council with the final development plan.

(Ord. 3443, approved by voters 11-7-95)

§ 1179.08 PARKING, STREET AND CIRCULATION REQUIREMENTS.

(a) Required number of off-street parking spaces. Parking shall be provided in accordance with the schedule established in § 1183.05, for uses which are permitted, provided that required parking for each dwelling shall be located within 100 feet of the unit served. Parking spaces for uses outside the planned development area or for continuation of uses on parcels adjacent to the planned development shall not be permitted.

(b) Visitor parking required. In addition to the requirements of § 1183.05, additional off-street visitor parking may be required by the Planning Commission when the Commission determines that the public and private streets are not suitable for occasional on-street parking.
and/or that the private driveways accommodate less than three vehicles per dwelling unit.

(c) Regulations for parking spaces.

(1) Parking spaces with associated access driveways shall be designed according to the standards for designing parking areas in § 1183.04.

(2) Automobile parking areas and access driveways shall be screened from adjoining property by the planting of substantially solid evergreen shrubbery or the construction of a decorative fence or wall as deemed suitable by the Commission. Landscape islands and planting areas shall be designed so that no unbroken row of parking contains more than eight parking spaces.

(3) Private streets and driveways shall have clear access to dedicated streets and shall be owned and maintained by the owners' association, the developer or others in a condition and under terms acceptable to the city by written agreement.

(d) Street and sidewalk regulations. All public and private streets shall be built to standards and specifications set by the city. The standards of Chapters 1117 and 1119 shall apply unless expressly modified by changes recommended by the city Engineer, the Planning Commission and approved by Council.

(1) The minimum curb radius of cul-de-sacs shall be not less than 45 feet, and provided that in all cases the minimum street right-of-way radius around the end of a cul-de-sac shall be ten feet larger than the pavement curb radius. A squared right-of-way around a cul-de-sac is permitted. Planting areas shall be prohibited in cul-de-sacs which have a radius less than the standard requirements of the Subdivision Regulations.

(2) Where street grades exceed 5%, where rights-of-way and pavement widths below the standard requirements of the Subdivision Regulations are permitted, or where the maintenance of safety and convenience is improved, on-street parking lanes shall be prohibited unless specifically approved by the Commission. In such areas the Commission may require the intermittent widening of streets for parking and turnarounds or off-street parking areas to be provided.

(e) Access to public streets. No more than 32 dwelling units shall be located off one access to a public street.

(Ord. 3443, approved by voters 11-7-95)

§ 1179.09 GENERAL SITE DEVELOPMENT CRITERIA.
In addition to the applicable planning criteria set forth in this Zoning Code, the planning and design of development areas shall take into account the following factors:

(a) **Development areas.** The areas allowed for building development shall lie outside of the flood plain, possess stable soil structure and consist of area with slopes of less than 15% gradient and which, through approved limited regrading, are physically suited for building development.

(b) **Topography and natural features.** Site planning shall be designed to take advantage of the topography of the land in order to utilize the natural contours, and to minimize destruction of trees and topsoil. The natural features and other distinctive characteristics of the site shall be integrated into the plan to create variations in the arrangements of buildings, open spaces and site features. It is intended that a program for preserving and quickly recreating an attractive landscape environment be a part of any development. Natural wooded areas shall be preserved to the greatest extent possible.

(c) **Landscaping.** All development and common open space shall be landscaped according to an overall coordinated plan, utilizing evergreen type whenever possible. Plantings, walls, fencing and screens shall be so designed and located as to optimize privacy and aesthetic quality without encroaching upon required automobile sight distances.

(d) **Grading.** Grading for building site preparation, street and sidewalk, and utilities construction shall be minimized and limited. Grading plans shall conform to the provisions of Chapters 1119 and 1175, and other requirements as may be determined necessary to carry out the intent of this chapter and other ordinances. Grading design shall employ the principle of half-cut and half-fill where soils, geological and other conditions permit rather than all cut or all fill. Grading requirements may be modified if recommended by the City Engineer, the Commission and approved by Council.

(e) **Location of dwelling units.** No dwelling unit shall front on arterial or collector streets. All dwelling units, wherever possible, shall front on cul-de-sacs, one-way or loop streets, or be off of courts or private streets as may be permitted.

(f) **Development layout.** Dwelling units shall be grouped or clustered so as to break up the development arrangement, maximize privacy, collect and maximize the common open space and promote the individual character and coordinated layout of each lot, cluster and grouping. Streets and cul-de-sacs shall be laid out so as to utilize natural contours and discourage through and high speed traffic, except on collector or arterial streets.

(g) **Vehicular circulation.** The circulation system and parking facilities shall be designed to fully accommodate the automobile with safety and efficiency without permitting it to dominate and destroy the form of the area. If developments have driveway access to arterial and collector streets, such driveways shall be placed at locations where the traffic can be controlled.
and operated effectively with the minimum interference with the capacity and flow of the existing streets.

(h) **Pedestrian Circulation.** An interconnecting walkway system shall be designed to promote easy and direct barrier free access, using accepted criteria, to all areas of the development in a carefully conceived total service plan. Wherever possible, the vehicular and pedestrian circulation patterns shall be completely separate and independent of one another.

(i) **Alignments.** Street, sidewalk, and utility alignment shall be parallel to contours, in valleys or on ridges where possible, in common open areas as permitted by the Commission. In areas served by private drives or cul-de-sac streets, a four foot concave dished surface of concrete or other approved materials may serve as a walkway and as a storm drainage channel if recommended by the City Engineer, the Commission and approved by Council.

(j) **Solid waste storage and disposal.** All solid waste rubbish, garbage and receptacles shall be stored in enclosed buildings acceptable to and regulated by the city.

(Ord. 3443, approved by voters 11-7-95)

§ 1179.10 APPROVAL OF PLANS.

Planned development area plans shall be submitted and approved under the procedures and requirements for approval in Chapter 1195 and procedures for issuing conditional use permits in § 1191.10.

(a) **Additional standards.** Additional development requirements formulated to achieve the objectives of the PDA may be established at the time the PDA development plan is reviewed. Any dimensional specifications adopted with such plan shall become binding land use requirements for the proposed planned development.

(b) ** Modifications to standards.** The Planning Commission may consider a development plan which varies from the strict standards of this Chapter and act upon the proposed application as if in compliance with this Chapter if the Planning Commission determines that the proposed development substantially complies with the specific requirements, purposes, intent and basic objectives of this Chapter, and that through imaginative and skillful design in the arrangement of buildings, open space, streets, access drives or other features, the proposal results in a development of equivalent or higher quality than that which could be achieved through strict application of such standards and requirements.

(Ord. 3443, approved by voters 11-7-95)
CHAPTER 1181: HEIGHT DISTRICT REGULATIONS

Section

1181.01 Establishment of height districts
1181.02 - 1181.10 [Reserved]
1181.11 Class One Height Districts
1181.12 [Reserved]
1181.13 Class Two Height Districts
1181.14 [Reserved]
1181.15 Class Three Height Districts

Cross-reference:

Building and structures defined, see § 1113.06
Height of building defined, see § 1113.10
Zone Map established, Ch. 1135

§ 1181.01 ESTABLISHMENT OF HEIGHT DISTRICTS.

(a) In order to carry out the purposes of this Zoning Code, the city is hereby divided into height districts which are either related to the use district enumerated elsewhere in this code, or are designated on the Zone Map by symbols and boundaries.

(b) Main and accessory buildings shall be erected, altered, moved or maintained only in accordance with the maximum height of building regulations established for each height district.

('64 Code, § 1181.01) (Ord. 2042, passed 12-20-72)

§§ 1181.02 - 1181.10 [RESERVED].

§ 1181.11 CLASS ONE HEIGHT DISTRICTS.
(a) The height of any main building or structure in a Class One Height District shall not exceed thirty (30) feet, except that not more than ten percent (10%) of the ground floor area may have a height not exceeding forty (40) feet, except as provided below. In a R-30 District, residential dwellings shall not exceed thirty (30) feet in height except that not more than twenty percent (20%) of the ground floor area may have a height not exceeding forty (40) feet. In a R-40 District, residential dwellings shall not exceed thirty (30) feet in height except that not more than twenty-five percent (25%) of the ground floor area may have a height not exceeding forty (40) feet. In a R-60 District, residential dwellings shall not exceed thirty (30) feet in height except that not more than thirty percent (30%) of the ground floor area may have a height not exceeding forty (40) feet.

(b) The height of any accessory building shall not exceed fifteen (15) feet.

(c) All dormers, stairwells, elevator shafts, air conditioning units or other similar structures or equipment extending above the roof line of a building shall be provided with a solid cover with design conforming to the architectural style and materials of the building, and shall extend no more than ten (10) feet above the height of the building.

('64 Code, § 1181.11) (Ord. 2042, passed 12-20-72; Am. Ord. 4185, passed 7-5-05)

§ 1181.12 [RESERVED].

§ 1181.13 CLASS TWO HEIGHT DISTRICTS.

(a) The height of any main building or structure in a Class Two Height District shall not exceed fifty (50) feet, except that not more than twenty percent (20%) of the ground floor area may have a height not exceeding sixty (60) feet.

(b) The height of any accessory building shall not exceed twenty (20) feet.

(c) All dormers, stairwells, elevator shafts, air conditioning units or other similar structures or equipment extending above the roof line of a building shall be provided with a solid cover with design conforming to the architectural style and materials of the building, and shall extend no more than ten (10) feet above the height of the building.

('64 Code, § 1181.13) (Ord. 2042, passed 12-20-72)
§ 1181.14 [RESERVED].

§ 1181.15 CLASS THREE HEIGHT DISTRICTS.

(a) The height of any main building or structure in a Class Three Height District shall not exceed eighty (80) feet except that not more than twenty percent (20%) of the ground floor area may have a height not exceeding ninety (90) feet.

(b) The height of any accessory building shall not exceed fifteen (15) feet.

(c) All dormers, stairwells, elevator shafts, air conditioning units or other similar structures or equipment extending above the roof line of a building shall be provided with a solid cover with design conforming to the architectural style and materials of the building, and shall extend no more than ten (10) feet above the height of the building.

('64 Code, § 1181.15) (Ord. 2042, passed 12-20-72)

CHAPTER 1183: PARKING AND LOADING FACILITIES

Section

1183.01 Intent
1183.02 Scope of regulations
1183.03 Measurement units
1183.04 Application and design
1183.05 Schedule of parking requirements
1183.06 Modifications of requirements
1183.07 Continuation of facilities
1183.08 Location of facilities
1183.09 Stacking spaces for drive-thru facilities
1183.10 - 1183.14 [Reserved]
1183.15 Improvements of parking areas and driveways
1183.16 Illumination of parking, loading areas and drive-in facilities
1183.17 Driveways to parking and loading areas and drive-in facilities
1183.18 [Reserved]
§ 1183.01 INTENT.

Off-street parking and loading requirements and regulations are hereby established in order to achieve, among others, the following purposes:

(a) To relieve congestion so the streets can be utilized more fully for movement of vehicular traffic;

(b) To promote the safety and convenience of pedestrians and shoppers by locating parking areas so as to lessen car movements in the vicinity of intensive pedestrian traffic;

(c) To protect adjoining residential neighborhoods from on-street parking;

(d) To promote the general convenience, welfare and prosperity of business, service, research, production and manufacturing developments which depend upon off-street parking facilities; and

(e) For such purposes as to provide regulations and standards for accessory off-street parking and loading facilities in accordance with the objectives of the Master Plan of the city.

('64 Code, § 1183.01) (Ord. 2042, passed 12-20-72)

§ 1183.02 SCOPE OF REGULATIONS.
(a) Accessory off-street parking and loading facilities shall be provided as a condition precedent to occupancy of all residential, institutional, recreational, places of assembly, business, office, research, production, service and industrial uses in conformance with the provisions of this chapter:

(1) Whenever a building is constructed or a new use established;

(2) Whenever an existing building is altered and there is an increase of the number of dwelling units, seating capacity, the floor areas of the building; and

(3) Whenever the use of an existing building is changed to a more intensive use which requires more off-street parking facilities, except certain nonconforming uses may continue as provided in § 1173.04(e).

(b) This Zoning Code shall be construed as encouraging the voluntary establishment of accessory off-street parking and loading facilities to serve an existing use of land or buildings, provided that there is adherence to the regulations herein controlling the location, capacity, design and operation of such facilities.

('64 Code, § 1183.02) (Ord. 2042, passed 12-20-72)

§ 1183.03 MEASUREMENT UNITS.

For the purpose of determining the off-street parking and loading facilities required as accessory to a use, definitions and standards for measurement are established as follows:

EMPLOYEES. Wherever the parking requirement is based on employees, means the maximum number of employees on duty on the premises at one time.

FLOOR AREA. For determining parking requirements, means the total area of all the floors of the building used by the principal activity as enumerated in the schedule, § 1183.05, measured from the exterior faces of the building. Basement areas or other floors, or parts thereof, designed, arranged or used exclusively for storage or similar uses, may be excluded from the floor area if approved by the Planning Commission.

GROSS FLOOR AREA. For determining loading requirements, means the total floor area used for the main and accessory activities, and storage areas of the building served.

OFF-STREET LOADING SPACE. Means an open space or enclosed area as part of a building, directly accessible to a public street and available whenever needed for the loading or unloading of goods and products to the main use.

OFF-STREET PARKING FACILITY. Means an open or enclosed area (garage)
directly accessible from a public street for parking of automobiles of owners, occupants, employees, customers or tenants of the main use. Each space shall be directly accessible from a drive or aisle, and not less than ten feet wide by 20 feet long, exclusive of all drives, aisles, ramps and turning space, except parking areas operated by an attendant and parking areas for one and two-family dwellings, may be less than the above size if approved by the Commission.

**SEATING CAPACITY.** Means the number of seating units installed or indicated on plans for places for assembly. Where not indicated on plans it shall be assumed that a fixed seating unit will occupy seven square feet of floor area exclusive of all aisles or areas used for assembly. For areas without fixed seating, it shall be assumed that a seating unit will occupy 15 square feet of floor area.

('64 Code, § 1183.03) (Ord. 2042, passed 12-20-72; Am. Ord. 2303, approved by voters 6-6-78)

§ 1183.04 APPLICATION AND DESIGN.

(a) **Application for providing facilities.** An application for a permit to construct a building or parking area, or for a certificate of occupancy for a change in use of land or a building shall include a site plan drawn to scale and fully dimensioned, showing the proposed design of the parking area and loading facilities to be provided in compliance with the provisions of this Zoning Code.

(b) **Determination of required parking facilities.** The minimum number of spaces required for accessory off-street parking shall be determined by applying the section on measurement units to the various categories and uses in the Schedule of Parking Requirements and any other applicable provisions of this Code. The computation shall be based on the total area of the various functions and activities, including consideration of number of employees and all of the types of functions such as office, assembly, recreation, education, and the like, for a given category where applicable. Modification to the number of spaces determined as a result of these computations, may be approved by the Planning Commission pursuant to § 1183.06. Where the computations result in fractional space in excess of one-half, it shall be counted as one additional space.

(c) See the following Standards for Designing Parking Areas.

**Standards For Designing Parking Areas**

Scale 1" = 30.0'

All parking spaces are 10.0' by 20.0'

One-Way Traffic 45° Parking
Two-Way Traffic 45° Parking
One-Way Traffic 60° Parking
Two-Way Traffic 60° Parking
One- or Two-Way Traffic 90° Parking

(d) Perimeter parking areas may be paved to a depth of eighteen (18) feet where curbing is provided to limit car overhang to two (2) feet over the non-paved area provided the two (2) foot overhang area is not included in the required yard setback area. Where cars are parked against raised sidewalks, the parking area may be paved to a depth of eighteen (18) feet if the sidewalk width is extended two (2) feet to allow for the car overhang of the sidewalk. Site plans shall indicate the total parking stall dimensions including any overhang area.

('64 Code, § 1183.04) (Ord. 2042, passed 12-20-72; Am. Ord. 2303, approved by voters 6-6-78; Am. Ord. 3824, passed 8-1-00)

§ 1183.05 SCHEDULE OF PARKING REQUIREMENTS.

A building occupied by one use shall provide the off-street parking spaces as required for that use. A building or group of buildings, occupied by two or more types of functions or uses operating normally during the same hours, shall provide spaces required for each function and use except as may be modified by § 1183.06.

Accessory off-street parking facilities shall be provided in quantities not less than set forth in the following schedule:

<table>
<thead>
<tr>
<th>Building Functions and Uses</th>
<th>Minimum Spaces Required (per square feet of floor space of main use, unless otherwise noted)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Residential</td>
<td></td>
</tr>
<tr>
<td>(1) One-family dwellings</td>
<td>Two enclosed spaces per dwelling unit</td>
</tr>
<tr>
<td>(2) Apartments</td>
<td>Two and one-quarter spaces per dwelling unit, including one enclosed space</td>
</tr>
<tr>
<td>(3) Rented rooms</td>
<td>One space per rented room</td>
</tr>
<tr>
<td>(b) Industrial</td>
<td>One space per 1.5 employees, plus one space per motor vehicle maintained on the premises or one</td>
</tr>
</tbody>
</table>

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# MINIMUM ACCESSORY OFF-STREET PARKING FACILITIES

<table>
<thead>
<tr>
<th>Building Functions and Uses</th>
<th>Minimum Spaces Required (per square feet of floor space of main use, unless otherwise noted)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>space per every 300 square feet, whichever is greater. Spaces shall also be provided for anticipated visitors.</td>
</tr>
</tbody>
</table>

(c) **Business and Offices.**

1. **General**
   - One space per 200 square feet

2. **Places serving food and drink**
   - One space per 50 square feet or net indoor customer service area spaces

3. **Hotels**
   - One space per guest room plus other uses

4. **Mortuaries**
   - One space per 50 square feet in parlors

(d) **Assembly Areas.**

1. **Auditoriums, lodge halls, theaters, gyms, stadiums, churches, club and community centers, meeting room and spectator areas**
   - One space per three seats. For areas without fixed seating, the estimated seating shall be based on maximum seating capacity.

2. **Exhibition areas, art galleries, libraries, museums, and the like**
   - One space per 400 square feet

(e) **Recreation (exclusive of spectator areas covered under assembly areas).**

1. **Swimming pools, skating rinks, dance halls, and the like**
   - One space per 50 square feet of active area

2. **Tennis court**
   - Four spaces per court

3. **Open commercial amusement**
   - One space per 500 square feet of lot area

4. **Bowling alleys**
   - Six spaces per lane

5. **Playing fields**
   - One space per 1000 square feet of playfield area

(f) **Educational Classrooms**

1. **Kindergarten, and the like**
   - Two spaces per classroom but not less than six spaces
MINIMUM ACCESSORY OFF-STREET PARKING FACILITIES

<table>
<thead>
<tr>
<th>Building Functions and Uses</th>
<th>Minimum Spaces Required (per square feet of floor space of main use, unless otherwise noted)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(2) Elementary and junior high schools</td>
<td>Two spaces per classroom and one space per eight seats in auditorium</td>
</tr>
<tr>
<td>(3) High schools</td>
<td>One space for each classroom and per ten students</td>
</tr>
<tr>
<td>(4) Business, technical and trade schools, colleges, and the like</td>
<td>One space for each two students</td>
</tr>
<tr>
<td>(5) Child Day Care Requirement</td>
<td>1 space per 200 square feet</td>
</tr>
</tbody>
</table>

(g) **Health and Welfare.**

| (1) General and special hospitals | One space per bed |
| (2) Institutions for children and aged, nursing homes, sanitariums | One space per two beds |
| (3) Medical clinics | One space per 200 square feet |

(h) **Additional Parking Spaces Requirements.**

In addition to the requirements contained in divisions (a) through (g), Minimum Space Required, one space per employee shall be provided.

('64 Code, § 1183.05) (Ord. 2303, approved by voters 6-6-78; Am. Ord. 2430, passed 5-15-79; Am. Ord. 3195, passed 2-4-92)

§ 1183.06 MODIFICATIONS OF REQUIREMENTS.

(a) **Public facilities available.** The required spaces as determined by the schedule in § 1183.05 and standards may be modified by the Planning Commission in business areas where free parking areas or publicly owned parking areas are readily accessible and where land is not available for development of accessory off-street parking as required herein.

(b) **Joint use of parking facilities.** Institutions, places of amusement or assembly may make arrangements with adjacent business establishments which normally have different hours of operation for sharing up to, but not more than 50% of their requirements in adjacent parking
areas which are accessory to such business uses, provided, however, where there is a sharing of facilities by different owners or tenants, there shall be a deed, lease agreement or easement covering a period of time as may be required by the Commission, and provided further that, should any of the uses be changed or the facilities discontinued, then the required spaces for the use or uses remaining shall be provided elsewhere as a condition precedent to the use of such building or buildings.

(c) Excessive parking requirements. Wherever the parking requirements based on functions and uses, area and seating, based on the Schedule of Parking Requirements can be shown by the applicant to result in an excessive number of parking spaces, the Commission may recommend a reduction of spaces up to the number that are excessive. The Planning Commission shall make their determination on reduced required parking, based on a written request and documentation submitted by the applicant.

(d) Reduction of enclosed garages for new multiple family developments. The Commission may recommend to Council a reduction in the required number of enclosed garages in exchange for outdoor parking spaces when either:

(1) The proposed development has included sufficient supplemental landscaping both along the periphery of the site to screen parking from adjacent property, and in the parking areas to effectively reduce the visual impact of large parking areas; or

(2) The site has unique topographic features which achieve the landscaping objectives.

This section does not reduce the total sum of the open and enclosed parking spaces which shall be provided for new multiple family development.

(e) Reserved area for future parking requirement. Whenever the Commission recommends the construction of a lesser number of spaces than the required number of spaces from the Schedule of Parking Requirements, pursuant to this section, the Commission shall require that all of the area needed to accommodate the additional number of parking spaces to make up the total parking requirement be reserved as open areas on the site. Such reserved parking shall be in addition to all required yards and shall be indicated on drawings as reserved area for future parking requirement.

('64 Code, § 1183.06) (Ord. 2042, passed 12-20-72; Am. Ord. 2303, approved by voters 6-6-78)

§ 1183.07 CONTINUATION OF FACILITIES.

Off-street parking and loading facilities accessory to an existing use on the effective date of this Zoning Code (Ordinance 2042, passed December 20, 1972) and those required as

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accessory to a use created or a building constructed or altered thereafter, shall be continued and
maintained in operation, and shall not be used for automobile sales, service, repair of motor
vehicles or other outdoor uses and shall not be reduced below the requirements during the period
that the main use is maintained unless an equivalent number of spaces shall be provided for such
use in another approved location.

(64 Code, § 1183.07) (Ord. 2303, approved by voters 6-6-78)

§ 1183.08 LOCATION OF FACILITIES.

Accessory parking facilities shall be provided at locations as set forth in this chapter
except as may be regulated or modified by the provisions in other chapters of the Planning and
Zoning Code.

(a) Residential districts. Enclosed and/or open parking facilities as required, shall be
located on the same lot as the dwelling unit to which they are accessory; in addition, in group
and apartment dwelling districts, the parking facilities shall be located within a walking distance
of two hundred (200) feet of the building entrance of the dwelling unit to be served.

The total number of open accessory parking spaces provided for any dwelling shall not
exceed the spaces required by more than fifty percent (50%) unless permitted as a conditional
use.

(b) Institutional, amusement and assembly uses, business and office uses. Parking
facilities shall be located on the same lot as the institution, place of amusement or assembly,
business or office. However, parking on an adjoining lot may be permitted pursuant to §
1183.06(b). The Commission shall determine that such parking on the adjoining lot is so located
to conveniently meet the needs of the building to be served. Evidence of the applicant's right to
use such parking spaces during nonconflicting normal hours of use shall be submitted to the
Commission.

(c) Industrial districts and uses. Parking facilities shall be located on the same lot as the use.

(64 Code, § 1183.08) (Ord. 2303, approved by voters 6-6-78)

§ 1183.09 STACKING SPACES FOR DRIVE-THRU FACILITIES.

Drive-thru establishments and other establishments which, by their nature, create lines of
customers waiting to be served within automobiles shall provide off-street stacking spaces, on
the same lot as the use, in addition to the required number of parking spaces specified in Schedule 1183.05, in accordance with the following:

(a) Minimum number of stacking spaces:

1. Establishments serving and/or selling food and/or drinks 10 stacking spaces
2. Automatic car wash facilities where a chain conveyor or other similar method is used to move the vehicle through the structure 10 stacking spaces
3. Facilities with service windows or service entrances such as banks, ticket booths, and other similar facilities 6 stacking spaces
4. Gasoline stations: per accessible side of a gasoline pump island. 2 stacking spaces

(b) Vehicles prohibited within the public right-of-way. In any case, vehicles shall not be permitted to wait within the public right-of-way for service at such drive-in or drive-thru facilities.

(c) Waiting space dimensions. Each off-street stacking space shall have an area not less than 144 square feet (measuring 8 feet by 18 feet) exclusive of access drives and parking aisles and shall not interfere with parking or circulation.

(Ord. 3741, passed 7-20-99)

§§ 1183.10 - 1183.14 [RESERVED].

§ 1183.15 IMPROVEMENTS OF PARKING AREAS AND DRIVEWAYS.

Parking areas and access driveways shall be designed, constructed, altered, graded and maintained as follows:

(a) Grading and pavement. Parking areas and access driveways shall be so graded and drained so as to dispose of all surface water, and drainage shall not be allowed to flow across a public sidewalk or onto adjacent properties. The areas and driveways shall be improved with concrete, asphaltic pavement, or other hard, permanent surface as may be approved by the Building Commissioner and City Engineer. All grading, pavement and construction shall be in accordance with the standards established by the City Engineer.
(b) **Design of parking lots.** Parking areas shall be appropriately designed and developed, as required by the Planning Commission, with landscaped areas, pedestrian walkways and planted island reasonably distributed throughout so as to interrupt the expense of paved areas. The parking areas shall meet the following requirements, except as otherwise approved by the Planning Commission and approved by Council:

1. Islands, walkways and landscaped areas shall have a minimum dimension of ten (10) feet.

2. Every landscaped area shall be planted with a large or medium sized permitted street tree as defined in Chapter 915, and according to the planting instructions contained in that chapter.

3. Parking areas shall be designed so as to have no more than twenty (20) cars in an unobstructed line of sight without an intervening landscaped island.

4. Not less than ten percent (10%) of the land area within the parking area shall be developed as landscaping planting areas. This requirement may be modified by the Planning Commission for parking areas containing less than one hundred (100) parking spaces.

5. Parking areas with existing specimen trees of eighteen inches (18") of D.B.H. or greater, as defined in Chapter 915, shall be designed to accommodate the preservation of these trees with islands adequate to protect the tree and root system unless otherwise approved by the City Arborist.

(c) **Signs.** Signs located on or related to parking areas shall be limited to those indicating instructions for parking or safety.

(d) **Wheel blocks.** Wherever a parking area extends to a property line or sidewalk, wheel blocks or other suitable devices shall be installed to prevent any part of a parked vehicle from extending beyond the property line or blocking the sidewalk.

(e) **Striping.** All parking areas with a capacity over twelve (12) vehicles shall be striped to indicate the parking stalls.

(f) **Maintenance.** The owner of the property used for parking and/or loading shall maintain such area in good condition without holes, free of all dust, trash and other debris.

(‘64 Code, § 1183.15) (Ord. 2042, passed 12-20-72; Am. Ord. 2303, approved by voters 6-6-78; Am. Ord. 3741, passed 7-20-99; Am. Ord. 3824, passed 8-1-00; Am. Ord. 4228, passed 12-20-05)

§ 1183.16 ILLUMINATION OF PARKING, LOADING AND OUTDOOR SALES AND
STORAGE AREAS.

(a) Parking areas shall be illuminated wherever necessary to protect the public safety. Such illumination shall not be less than one-quarter (¼) of one (1) lumen per square foot of parking area.

(b) Lighting fixtures shall be so designed and located as to directly illuminate the specific area only, and not reflect rays of light beyond the lot line. Direct illumination on adjoining residential districts and streets is prohibited. The intensity of all lighting shall not have excessive brightness or cause a glare hazardous to pedestrians and auto drivers and shall otherwise conform to standards designated by the Commission.

('64 Code, § 1183.16) (Ord. 2303, approved by voters 6-6-78)

§ 1183.17 DRIVEWAYS TO PARKING, LOADING AREAS AND DRIVE-IN FACILITIES.

The location, width and number of entrance and exit driveways serving accessory parking facilities (other than those required for detached and semi-detached dwellings), including waiting spaces for lines to drive-in windows, pick-up and control stations, ticket booths and similar facilities, fee parking lots and public and accessory parking lots shall conform to the following regulations.

(a) Design of driveways. All such driveways shall be designed to minimize interference with the use of adjacent property, pedestrian movement and the flow of traffic on the streets to which they connect.

(b) Distance between driveways and intersection streets.

(1) The minimum distance from the nearest edge of a driveway and the right-of-way of the intersecting arterial or collector street (as designated on the Zoning Map), measured along the property line or extension thereof, shall not be less than sixty (60) feet.

(2) The minimum distance from the nearest edge of a driveway and the right-of-way line of a local street (as designated on the Zoning Map), measured along the property line or extension thereof, shall not be less than forty (40) feet.

(c) Distance between two driveways along arterial streets.

(1) For lots of record, the minimum distance between the centerlines of any two (2) two-way driveways or a pair of one-way driveways connected to an existing or proposed arterial street (as designated on the Zoning Map of the city), shall not be less than two hundred
(200) feet, provided that any lot of record which, on the effective date of this section has a frontage less than two hundred (200) feet, may, at the option of the Commission, be permitted one (1) two-way driveway or a pair of one-way access drives. Where appropriate, the Planning Commission may require common driveways for two (2) or more adjacent parcels in order to achieve the objectives of this section.

(2) Any subdivision proposed which would create one (1) or more lots of record with frontages less than two hundred (200) feet, shall not be approved unless an agreement, deed restriction or other legal conveyance, acceptable to the Commission, is duly recorded as a part of the subdivision to assure that any subsequent development on the two (2) or more separate parcels shall be carried out in conformance to this section.

(d) Entrance or exit driveways. Entrance or exit driveways shall not exceed three (3) lanes in width and shall be designed so that all vehicles can be driven forward into the street. The width of such driveways, measured at the street property lines, shall conform with the following schedule:

<table>
<thead>
<tr>
<th>Number of Lanes</th>
<th>Minimum</th>
<th>Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td>One</td>
<td>12</td>
<td>18</td>
</tr>
<tr>
<td>Two</td>
<td>18</td>
<td>24</td>
</tr>
<tr>
<td>Three</td>
<td>27</td>
<td>36</td>
</tr>
</tbody>
</table>

If both entrance and exit traffic is to be accompanied by four (4) or more lanes adjacent to each other, such entrance lanes shall be separated from exit lanes by a median divider which shall have a minimum width of five (5) feet and be appropriately landscaped or other separation acceptable to the Commission. The angle of intersection between the driveway and the street shall be between seventy (70) and ninety degrees (90°). The radii of the edge of the driveway apron shall be at least twenty-five (25) feet, unless under special circumstances, and when recommended by the Planning Commission, such driveway radii may be reduced to not less than fifteen (15) feet.

(e) Drive-in windows. Each drive-in window, pickup and control station, ticket booth and similar facility shall provide spaces in a waiting line to accommodate at least six (6) vehicles on the lot occupied by the facility.

(‘64 Code, § 1183.17) (Ord. 2303, approved by voters 6-6-78)
§§ 1183.18 and 1183.19  [RESERVED].

§ 1183.20 LOADING FACILITIES.

Accessory loading and unloading facilities shall be provided as a condition precedent to occupancy of all business, service and industrial buildings hereafter erected and altered to such uses and shall be maintained so long as such building is occupied or unless equivalent facilities are provided in conformance with the regulations of this chapter.

(a) **Allocation of use.** Space required and allocated for any off-street loading shall not, while so allocated be used to satisfy the space requirements for off-street parking. An off-street loading space shall not be used for repairing or servicing of motor vehicles, and shall be available for its designated purpose when needed.

(b) **Location of facility.** All required accessory loading berths shall be related to the building and use to be served so that no part of the truck shall project into a public street, sidewalk or off-street parking area during the loading or unloading process. A required loading space shall not be located in a required front yard, or a required side or rear yard if adjoining a residential district or a street. If the loading space is enclosed it may be located in a side or rear yard if approved by the Planning Commission.

(c) **Access-driveways.** Each required off-street loading space shall be designed for direct vehicular access by means of a driveway or driveways to a public street in a manner set forth in § 1183.17.

(d) **Improvements.** All accessory off-street loading spaces shall be improved as required for parking areas as set forth in § 1183.15.

(e) **Minimum size criteria.** Each required off-street loading space for buildings less than 20,000 square feet in gross floor area shall be at least ten feet wide by at least 25 feet in length. Each required loading space for a building of 20,000 square feet or more of floor area shall be not less than 14 feet wide by 50 feet in length. The above areas shall be exclusive of the maneuvering space, and each space shall have a vertical clearance of at least 14 feet.

(f) **Schedule of required loading facilities.** Buildings of less than 5,000 square feet of floor area shall be provided with receiving platforms or other commensurate facilities and buildings of 5,000 square feet or more shall be provided with accessory off-street loading spaces as required herein:
### Table: Required Loading Facilities

<table>
<thead>
<tr>
<th>Building, Use or Activity</th>
<th>Gross Floor Area of Building (square feet)</th>
<th>Required Number of Loading Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail stores, all types</td>
<td>5,000 to 10,000</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>10,000 to 40,000</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>40,000 to 100,000</td>
<td>3</td>
</tr>
<tr>
<td>Printing, publishing warehouses, storage establishments</td>
<td>5,000 to 40,000</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>40,000 to 100,000</td>
<td>2</td>
</tr>
<tr>
<td>Servicing, cleaning, repairing, testing or manufacturing establishments</td>
<td>5,000 to 40,000</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>40,000 to 100,000</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>each additional 100,000</td>
<td>1 additional</td>
</tr>
</tbody>
</table>

### (g) Excessive facilities.
Wherever the schedule for loading facilities is shown to result in excessive size or number of loading facilities for a building or group of buildings by virtue of the size of the facilities or the design thereof, reduced requirements can be recommended by the Commission.

(64 Code, § 1183.20) (Ord. 2042, passed 12-20-72; Am. Ord. 2303, approved by voters 6-6-78)

### §§ 1183.21 - 1183.24 [RESERVED].

### § 1183.25 APPROVAL OF FACILITIES.

(a) Detailed drawings of accessory off-street parking and loading facilities shall be submitted in accordance with all the provisions of this chapter for review by the Planning Commission.

(b) The Commission may require structural or landscape features such as bumper guards, curbs, walls, fences, shrubs, ground cover or hedges to further carry out the objectives of the Master Plan and of this Zoning Code before the application is approved and a building permit is issued.
or certificate of occupancy may be issued.

(‘64 Code, § 1183.25) (Ord. 2042, passed 12-20-72)

CHAPTER 1185: FENCES

Section

1185.01  Definitions
1185.02  Permitted fences; residential and commercial areas
1185.03  Location and height of fences; residential and commercial areas
1185.04  General construction standards
1185.05  Specifications for wood, wood product, simulated wood and vinyl fences
1185.06  Specifications for chain link fences
1185.07  Maintenance
1185.08  Permit required; fee and exceptions
1185.09  Miscellaneous provisions
1185.99  Penalty

Appendix A: Examples of fences

§ 1185.01 DEFINITIONS.

The following terms shall have the following definitions and meanings for the purposes of this chapter and for the Brecksville Planning, Zoning and Building Codes:

BARBED WIRE FENCE. A fence made with metal wire having sharp points or barbs along its length.

BRICK, STONE or other MASONRY FENCE or WALL. An open fence or solid wall constructed of brick, stones or other masonry substance.

CHAIN LINK FENCE. A fence usually made of metal consisting of loops of wire interconnected in a series of joined links.

COMMERCIAL AREA. Any areas of the city zoned for business, industrial or parking use, including areas zoned OB, LB, SC, CS, MS, OL, MD and AP as provided for in § 1135.01 of the Code.

ELECTRIC FENCE. A fence or other structure included in which or attached to which is any device or object which emits or produces an electric charge, impulse or shock when the
fence or structure comes in contact with any other object, person, animal or thing, or which causes or may cause burns to any person or animal.

**FENCE.** Any structure composed of wood, steel, vinyl, simulated wood, wood products or other material erected in such a manner and positioned as to enclose or partially enclose any premises or any part of any premises. Trellises or other structures supporting or for the purpose of supporting vines, flowers or other vegetation when erected in such position to enclose any premises or any part of any premises shall be included within the definition of the word "fence".

**FENCE HEIGHT.** The maximum height between any two (2) adjacent fence posts or other supporting structures, measured from ground level to the top of the fencing material or any decorative feature placed thereon.

**OPEN ORNAMENTAL FENCE.** A fence, usually made of wood, constructed for its beauty or decorative effect. Open ornamental fences include the following:

1. **SPLIT RAIL FENCE** or **POST AND RAIL FENCE.** A fence constructed of narrow whole or split wooden timbers, placed horizontally between upright supporting posts.

2. **POST AND BOARD FENCE** or **PADDOCK** or **CORRAL.** A fence constructed of wooden boards placed horizontally between upright supporting posts or placed into slotted posts.

3. **PICKET FENCE.** An open fence made of upright poles or slats. The size of the slat and the spacing between the slats shall be subject to the following:

<table>
<thead>
<tr>
<th>Width of Slat</th>
<th>Spacing Between Slats</th>
</tr>
</thead>
<tbody>
<tr>
<td>5&quot; or 6&quot;</td>
<td>4&quot;</td>
</tr>
<tr>
<td>3&quot; or 4&quot;</td>
<td>Not less than 1&quot; nor more than 4&quot;</td>
</tr>
<tr>
<td>1&quot; or 2&quot;</td>
<td>Not less than 1&quot; nor more than 4&quot;</td>
</tr>
</tbody>
</table>

**PRIVACY FENCE.** A fence to inhibit public view and provide seclusion and, when viewed at right angles, having more than fifty percent (50%) of the area of its vertical plane, the area within a rectangular outline enclosing all parts of the fence in its vertical plane, closed to light or air. Privacy fences include the following:

1. **STOCKADE FENCE** or **PALISADE FENCE.** A fence constructed with a row of large, pointed stakes placed upright and against each other, having more than fifty
percent (50%) of the area of its vertical plane closed to light or air.

(2) **SOLID BOARD.** A fence constructed with a row of boards placed upright and against each other, having more than fifty percent (50%) of the area of its vertical plane closed to light or air.

(3) **BOARD ON BOARD FENCE or SHADOW BOX FENCE.** A fence constructed with a row of boards placed upright on opposite sides of a supporting beam. The individual boards on the same side of the supporting beam shall be separated by a distance that equals or is less than the width of the board. The fence shall have more than fifty percent (50%) of the area of its vertical plane closed to light or air.

(4) **BASKET WEAVE FENCE or WOVEN FENCE.** A fence made of interwoven strips or slats of flexible or semi-flexible material in which the pattern has the appearance of a plaited basket.

(5) **LOUVER FENCE or VENTILATING FENCE.** A fence made of a series of slats placed at an angle or position so as to provide passage of air but to deflect light perpendicular to its vertical plane.

**RESIDENTIAL AREA.** Any areas of the city zoned for residential use or community facilities use, including areas zoned R-60, R-40, R-30, R-20, R-16, R-8, R-A and C-F as provided for in § 1135.01 of the Code.

**WROUGHT IRON FENCE.** A fence constructed of wrought iron, or other metal manufactured to look like wrought iron slats which come to a point or other decorative feature which are mounted upright on the sides of supporting horizontal beams between supporting posts.

(Ord. 3943, passed 3-19-02)

§ 1185.02 PERMITTED FENCES; RESIDENTIAL AND COMMERCIAL AREAS.

(a) Chain link, board on board, picket, split rail, post and rail, post and board, paddock, corral, wrought iron, open ornamental and basket weave fences shall be permitted in residential areas as regulated in this chapter. In addition, decorative brick or stone walls may be permitted in residential areas as regulated in this chapter.

(b) Chain link, louver, board on board, wrought iron, open ornamental and basket weave fences shall be permitted in commercial areas as regulated in this chapter. In addition, brick, stone or other masonry walls, as recommended by the Planning Commission and approved...
by Council may be permitted in commercial areas as regulated in this chapter.

(c) Electric and barbed wire fences shall be prohibited in all areas of the city except an electrified fence may be permitted upon land consisting of at least five (5) acres, wherein a working farm is being operated. The type, construction and location of such electrified fencing shall be as approved by the Building Commissioner.

(d) Any other type of fence, wall or other similar structure not specifically permitted by this section to be in a residential or commercial area is prohibited.

(Ord. 3943, passed 3-19-02) Penalty, see § 1185.99

§ 1185.03 LOCATION AND HEIGHT OF FENCES; RESIDENTIAL AND COMMERCIAL AREAS.

(a) Interior lots. Fences and walls on interior lots within residential areas may be permitted within one (1) foot of any rear lot line or side lot line to the front building line to a height not to exceed four (4) feet from the existing grade. No fences or walls may extend into the front yard beyond the building setback line.

(b) Corner lots. Fences and walls within residential areas, where the rear or side yard abuts a street are prohibited, except that a split rail or post and rail fence may be located within one (1) foot of the side or rear property line which abuts a street, to a height not to exceed three (3) feet above the existing grade.

(c) Commercial lots. Fences and walls within commercial areas may be permitted within one (1) foot of any rear lot line or side lot line to the front building line to a height not to exceed six (6) feet from the existing grade. No fences or walls may extend into the front yard beyond the building setback line unless otherwise recommended by the Planning Commission and approved by Council.

(Ord. 3943, passed 3-19-02)

§ 1185.04 GENERAL CONSTRUCTION STANDARDS.

(a) Fences shall be installed so that the finished side is to the adjacent property owner's view. All posts and structural members shall be on the side facing the fence owner's property.

(b) Fencing shall be installed plumb and the top finish of the fence shall be uniform.
Fences shall follow the existing contour of the ground as far as is practical. Adjustments for grade shall occur at the bottom of the fence. Where adjustments for grade changes are severe enough to require stepping, a minimum of eight (8) feet of uniform fence run shall be maintained prior to each step.

(c) Where an adjacent lot owner has already installed a fence along a property line an additional fence will not be permitted. If an adjacent lot owner's fence does not border the entire property line, a new section of fence compatible with the existing fence may be installed along that portion of the property line. If the installation leaves gaps, connection to the existing fence may be made with the owner's permission.

(Ord. 3943, passed 3-19-02) Penalty, see § 1185.99

§ 1185.05 SPECIFICATIONS FOR WOOD, WOOD PRODUCT, SIMULATED WOOD AND VINYL FENCES.

The following specifications shall apply to the materials and construction of wood, wood product, simulated wood and vinyl fences:

(a) Posts and framing. Post spacing shall not exceed eight (8) feet. All post holes should be a minimum of thirty-eight (38) inches deep for all fences. All terminal, corner and gate posts should be set thirty-eight (38) inches deep.

(b) Post holes should be at least four (4) inches larger in diameter than the largest dimension of the post. All terminal, corner and gate posts should be set in concrete.

(c) Fences up to five (5) feet shall have a minimum of two (2) rails (stringers) top and bottom. Fences over five (5) feet shall have a third rail at center height. Stringers shall be 2" x 4" minimum (nominal).

(d) Materials. All materials used in wood fencing should be either:

(1) Naturally rot resistant wood (such as Cedar);

(2) A wood pressure treated for rot-resistance;

(3) A wood product or simulated wood material which is designed to be rot and weather resistant; or

(4) Be vinyl coated or thoroughly coated with a paint or protective coating immediately on installation.

(e) Fasteners. Fasteners shall be made of a non-rusting, non-corrosive material or
coated to resist rusting. Nails shall be long enough to penetrate the receiving member twice the thickness of the thinner member but not less than one and one-half (1½) inches.

(f) Cover boards shall be one-half inch minimum thickness.

(g) The tops of the cover boards may be cut to many different designs such as dog ear (corners cut off at forty-five degree (45E) angles), gothic (two (2) arc shaped cuts that meet in the center to form a graceful point), standard point (boards cut to a point with forty-five degree (45E) angles), or domed or rounded top (where the top is cut to a half circle). There are many shapes and styles that may be custom cut at specific request. Post tops may also be cut to several decorative shapes such as pyramid, gothic, domed and chamfered. Also, shaped terminals may be screwed onto the tops of posts.

(Ord. 3943, passed 3-19-02) Penalty, see § 1185.99

§ 1185.06 SPECIFICATIONS FOR CHAIN LINK FENCES.

The following specifications shall apply to the materials and construction of chain link fences:

(a) Structural members:

(1) Posts. Post spacing shall not exceed ten (10) feet. Posts shall be set in concrete. Diameter of holes shall be four (4) times the largest cross section of the post.

(2) Depth. Depth shall be a minimum of thirty-eight (38) inches for all fences.

(3) Top rail. A top rail shall be used for all chain link fences. Top rail shall be continuous between terminals and shall be swedged or sleeved. Top rail shall be supported at all posts. At corners and terminals, rail shall be connected by means of a rail end fitting.

(4) Dimensions of structural members.

<table>
<thead>
<tr>
<th>Member</th>
<th>Minimum Diameter</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5 ft. or less in height</td>
</tr>
<tr>
<td>Top Rail</td>
<td>1 - in.</td>
</tr>
<tr>
<td>Line Post</td>
<td>1 - in.</td>
</tr>
<tr>
<td>Terminal and Gate Post</td>
<td>2 - ½ in.</td>
</tr>
</tbody>
</table>
(5) **Fabric.** The selvage edge of wire fabric shall be either knuckled or twisted. The fabric shall be installed with only a knuckled edge at the top. Rolls of wire fabric shall be joined by weaving a single picket into the ends of rolls to form a continuous mesh. Fabric shall be fastened to line posts at intervals not exceeding fifteen (15) inches. Fabric shall be fastened to top rail at intervals not exceeding twenty-four (24) inches. Tension bars shall be used at all terminal, corner and gate posts. Fabric shall be tightened to provide a smooth, uniform appearance free from sag.

(Ord. 3943, passed 3-19-02) Penalty, see § 1185.99

§ 1185.07 MAINTENANCE.

All permitted fences and walls shall be maintained in good condition, be structurally sound and attractively finished at all times. Any grounds between the fence or wall and the property line shall be well maintained by the property owner at all times. All permitted fences, and walls if applicable, shall be designed, constructed and finished so that the supporting members face the property of the owner of the fence and the finished side of the fence or wall faces the adjacent property.

(Ord. 3943, passed 3-19-02) Penalty, see § 1185.99

§ 1185.08 PERMIT REQUIRED; FEE AND EXCEPTIONS.

Prior to the construction or replacement of any fences or walls, a permit shall first be obtained from the Building Department upon forms as prescribed by the Building Commissioner. No permit to erect any fence shall be issued by the Building Commissioner without the applicant first presenting the Building Commissioner with a survey of the parcel of land sought to be enclosed by the fence, or in the alternative, a written agreement among all persons of interest, contiguous to such parcel of land being enclosed expressing their agreement and consent to the location of such fence upon the applicant's parcel of land. The fee for such permit shall be in accordance with the schedule of fees contained in Chapter 1314 of the Building Code. No permit shall be required for the installation of temporary snow fencing as provided in § 1185.09(c).

(Ord. 3943, passed 3-19-02)
§ 1185.09 MISCELLANEOUS PROVISIONS.

(a) Fences required for certain types of swimming pools shall be regulated in accordance with § 1323.03 of the Code.

(b) Fences or walls required for trash enclosures shall be regulated in accordance with §§ 1151.33(d), 1153.31(d), 1153.31(g) and 1157.29(h)(i) of the Code.

(c) Temporary snow fences not exceeding forty-eight (48) inches in height may be erected without a permit between December 1st of any year and the following March 31st for the purpose of controlling snow drifting. Snow fences may extend beyond or be located in front of the building setback line not more than one-half the distance between the building setback line and the corresponding street public right-of-way. On corner lots, snow fences may not be located so as to obstruct site lines of the traffic on the adjacent streets. In any event snow fences shall not be erected or located that would:

1. Hinder access to the residence or building by vehicles and personnel responding to a fire, police or medical emergency; or

2. Cause snow to accumulate in a manner which would encroach upon or block any public right-of-way including sidewalks, hinder operation of city snow removal equipment, block access to or cause damage to adjacent properties or create a sight line hazard from any public right-of-way or private drive.

(Ord. 3943, passed 3-19-02) Penalty, see § 1185.99

§ 1185.99 PENALTY.

Any person, firm, corporation or other entity who violates any provision of this chapter shall be deemed guilty of a misdemeanor of the fourth degree.

(Ord. 3943, passed 3-19-02)

APPENDIX A: EXAMPLES OF FENCES

Note: The graphic examples of a portion of the fences defined in Section 1185.01 of this chapter are designed to be for illustrative and example purposes only, and are not designed to be a complete listing or depiction of all fences and fence types referenced in this chapter. These
examples have been adopted by reference. Please refer to Ordinance No. 3943, passed March 19, 2002.

CHAPTER 1186: SMALL WIND ENERGY SYSTEMS AND SOLAR ENERGY SYSTEMS

Section
1186.01 Intent
1186.02 Definitions
1186.03 Location and use regulations
1186.04 General requirements
1186.05 Review and recommendation by Planning Commission; approval by City Council
1186.06 Deviations from specific requirements
1186.07 Fees
1186.08 Climb prevention/locks
1186.09 Dismantling and removal of solar energy and small wind energy systems
1186.10 Exemptions for solar energy systems and small wind energy systems located on city-owned property
1186.99 Penalty

§ 1186.01 INTENT.

The purpose of this chapter is to preserve and protect the public health and safety and to promote the orderly land use and development of the city. Specifically it is the intent of this chapter to do the following:

(a) Regulate the placement, construction and alteration of small wind energy systems and solar energy systems, as defined herein, throughout the city to protect and promote the health, safety and welfare of the city's residents and to promote and protect the economic vitality of the city and to protect property values.

(b) Minimize the visual impacts of small wind energy systems and solar energy systems through careful design, placement and screening.

(c) Accommodate the growing need for small wind energy systems and solar energy
systems.

(d) Avoid potential damage to adjacent properties from the failure of small wind energy systems and solar energy systems through proper engineering and the proper installation of these systems including the prudent locating of tower structures used in small wind energy systems.

(e) To the greatest extent feasible, provide that proposed small wind energy system and solar energy systems shall be designed in harmony with the natural setting and the surrounding development pattern as well as to the highest industry standards.

(f) Establish criteria designed to minimize adverse health, safety, public welfare and visual impacts through the location, design and construction of the small wind energy system or the solar energy system and through the use of buffering requirements.

(Ord. 4501, passed 8-18-09; Am. Ord. 4567, passed 6-1-10)

§ 1186.02 DEFINITIONS.

The following definitions pertain to the general installation of small wind energy systems and solar energy systems:

**HUB HEIGHT.** The distance measured from the surface of the tower foundation to the height of the wind turbine hub, to which the blade is attached.

**LOT.** A distinct permanent parcel, identified as such by permanent parcel number upon the public record.

**MONOPOLE OR WINDMILL TOWER.** A support structure on which the rotor, turbine and accessory equipment are mounted, erected for small wind energy system purposes, and securely anchored to a foundation.

**OWNER.** The individual, entity and/or property owner that intends to own and operate the small wind energy system or solar energy system in accordance with this chapter. Should the property owner be different than the owner or entity who intends to own and operate the small wind energy system or solar energy system, the property owner shall provide written consent and submit this consent at the time of application for approval.

**SMALL WIND ENERGY SYSTEM.** A wind energy conversion system consisting of a turbine, a tower, and associated control or conversion electronics which is intended to primarily reduce consumption of utility power. A **SMALL WIND ENERGY SYSTEM** shall not exceed a rated capacity of ten (10) kWh.
SOLAR ENERGY SYSTEMS. A renewable energy system that converts solar energy into a usable electrical energy, heats water or produces hot air or similar function through the use of solar collectors which:

1. Is used to generate electricity;
2. Has a nameplate capacity of one hundred (100) kilowatts or less.

SOLAR ENERGY SYSTEMS include solar panels and/or generator and all associated equipment, including any lines, pumps, mounting brackets, framing, base, foundation, structural support, wire(s), batteries or other components necessary to fully utilize the collection of solar energy.

TOTAL HEIGHT. In relation to solar energy systems, the vertical distance from the ground to the maximum height of the apparatus and all associated equipment of the solar energy system at its highest point.

TOWER HEIGHT. The vertical component of a wind energy system that elevates the wind turbine generator and attached blades above the ground. TOWER HEIGHT shall be measured from the ground level to the blade extended at its highest point or to the top of the tower, whichever is highest.

(Ord. 4501, passed 8-18-09; Am. Ord. 4567, passed 6-1-10)

§ 1186.03 LOCATION AND USE REGULATIONS.

(a) No person shall cause, allow or maintain the use of a small wind energy system or a solar energy system without first having obtained a permit from the Building Department. Application for a permit shall be made to the Building Commissioner on forms provided by the Building Commissioner. Fees collected with regard to this permit shall be as set forth in this chapter.

(b) A small wind energy system is permitted within the city subject to the following:

1. Minimum lot area is at least five (5) acres.
2. One (1) small wind energy system tower per lot.
3. Minimum yard requirements for all small wind energy system:
   A. The minimum distance to any lot line, overhead electrical and communication lines from the small wind energy system structure, shall be not less than one and one-half (1-1/2) times of its tower height.
B. The minimum distance from the small wind energy system structure to any inhabited dwelling shall not be less than three hundred (300) feet.

C. No small wind energy system shall be located in any front or side yard.

D. The tower height shall be limited to sixty (60) feet for a small wind energy system, and shall be in compliance with all applicable FAA regulations. Minimum height from the base of the tower to the lowest part of the blade tip or rotor system shall be twelve (12) feet.

E. The design of the small wind energy system or tower shall be of a monopole or freestanding design without guy wires. The monopole shall be designed to withstand sustained winds of at least eighty (80) miles per hour with one-half (1/2) inch of icing and designed and stamped by a professional engineer.

F. Sound levels of small wind energy systems shall not exceed forty-five (45) dBA, as measured at the closest neighboring inhabited dwelling. This maximum sound level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.

G. Small wind energy systems shall be equipped with manual (electronic or mechanical) and automatic over speed controls to limit the blade rotation speed to within the design limits of the small wind energy system.

H. All electrical interconnection or distribution lines shall be underground and comply with all applicable Building Codes and public utility requirements.

I. The small wind energy system shall have a capacity of not more than ten (10) kilowatts maximum power.

J. No small wind energy system shall be installed until written evidence has been provided to the Building Commissioner that the applicable utility company has been notified of the property owner's intent to install an interconnected, customer owned, generator and has approved this installation. Off-grid systems shall be exempt from this requirement.

K. A small wind energy system may be permitted in any interstate highway right-of-way pursuant to the provisions as set forth in this chapter.

(c) A solar energy system is permitted within the city subject to the following:

(1) Solar panels shall be permitted as a rooftop installation in any residential zoning district. The roof mounted solar energy equipment shall not exceed the maximum building height for the residential zoning district where it is located, and shall be installed in...
compliance with the applicable Building Code and manufacture installation specifications. Solar panels installed in a roof-top configuration are limited to the portion of the roof which faces the rear yard and shall not exceed twenty-five percent (25%) of that portion of the roof area. In addition, the roof mounted solar energy equipment must be installed within the actual boundaries or edges of the roof area and cannot overhang any portion of the edge of the roof.

(2)  Ground mounted solar energy equipment shall not be permitted.

(3)  Rooftop installations must not interfere with any roof penetrations (e.g., plumbing, vents, chimneys) or operation of plumbing fixtures protruding from the rooftop level as required by the applicable Building Codes.

(4)  All electrical interconnection or distribution lines shall be underground and comply with all applicable Building Codes and public utility requirements.

(5)  No solar energy system shall be installed until written evidence has been provided to the Building Commissioner that the applicable utility company has been notified of the property owner's intent to install an interconnected, customer owned, generator and has approved this installation. Off-grid systems shall be exempt from this requirement.

(6)  Labeling requirements. A minimum of one (1) sign shall be posted near ground level on the interconnection cabinet warning of high voltage. In addition, the following information shall be posted on a label or labels on the interconnection cabinet of the solar energy system:

A.  The maximum power output of the system.

B.  Nominal voltage and maximum current.

C.  Manufacturer's name, address and telephone number, serial number and model number.

D.  Emergency and normal shutdown procedures.

E.  Should the solar energy system interconnection cabinet be located on the inside of a structure, a sign notifying the existence of a solar energy system shall be placed on the outside of the building, near the electrical and/or gas meter in order to notify emergency personnel of the solar energy system.

(7)  One (1) solar energy system per lot.

(d)  Outdoor storage. Outdoor storage of any supplies or equipment related to the use of the small wind energy system or a solar energy system is prohibited.

(e)  Advertising. No flags, streamers, decorations, advertising signs of any kind or nature whatsoever shall be permitted on any small wind energy system and/or tower, or upon any
portion of a solar energy system.

(Ord. 4501, passed 8-18-09; Am. Ord. 4567, passed 6-1-10) Penalty, see § 1186.99

§ 1186.04 GENERAL REQUIREMENTS.

(a) The following requirements apply to all small wind energy systems.

(b) Any person desiring to install a small wind energy system shall apply for a permit from the Building Department and the application shall include the following:

(1) The name, address, and telephone number of the applicant.

(2) A site plan, at a scale of not less than one (1) inch equal to one hundred (100) feet, prepared by a professional land surveyor or professional engineer indicating the proposed small wind energy system location, property identification by tax map and parcel, property lines, acreage and zoning district designation of the parcel to be served by the small wind energy system, separation distances between the small wind energy system and all buildings and outbuildings on the site, and all neighboring buildings and outbuildings within three hundred (300) feet, together with identification of all roads adjacent to the site.

(3) Elevations of the site to scale showing the height, design and configuration of the small wind energy system and the height and distance to all existing structures, buildings, electrical lines and property lines.

(4) Standard drawings and an engineering analysis of the small wind energy system's tower, including weight capacity.

(5) A standard foundation and anchor design along with soil conditions and specifications for the soil conditions at the site.

(6) Specific information on the type, size, rotor material, rated power output, performance, safety and noise characteristics of the system; including, the name and address of the manufacturer, model and serial number.

(7) A line drawing showing the electrical components of the small wind energy system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

(8) Emergency and normal shutdown procedures.

(9) An affidavit or similar evidence of agreement between the property owner and the small wind energy system owner or operator demonstrating that the system owner or
operator has the permission of the property owner to apply for necessary permits for construction and operation of the small wind energy system.

(10) Other relevant studies, reports, certifications and approval as may be reasonably requested by the Building Commissioner to ensure compliance with this chapter and any other applicable law, rule or regulation.

(11) The fees as established pursuant to § 1186.06.

(c) Any person desiring to install a solar energy system shall apply for a permit from the Building Department and the application shall include the following:

(1) The name, address, and telephone number of the applicant;

(2) Property lines and physical dimensions of the lot upon which the system is to be placed;

(3) Location, dimension (including height) and types of existing major structures on the lot;

(4) Location, dimension, and type of the proposed solar energy system;

(5) The right-of-way of any public road that is contiguous with the lot;

(6) The location of any overhead utility lines which traverse the lot;

(7) Manufacturer solar energy system specification/cut sheets certified by a licensed Ohio engineer, including the name of the manufacturer and model of the solar energy system;

(8) A line drawing showing the electrical components of the solar energy system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code;

(9) Notification of utility company for interconnection purposes;

(10) Other relevant studies, reports, certifications and approval as may be reasonably requested by the Building Commissioner to ensure compliance with this chapter and any other applicable law, rule or regulation; and

(11) The fees as established pursuant to § 1186.06.

(Ord. 4501, passed 8-18-09; Am. Ord. 4567, passed 6-1-10)

§ 1186.05 REVIEW AND RECOMMENDATION BY PLANNING COMMISSION;
APPROVAL BY CITY COUNCIL.

(a) The Building Commissioner shall forward the application and drawings for either the small wind energy system or the solar energy system to the Planning Commission for its review and recommendation. In addition to reviewing the applications and accompanying documents, the Planning Commission shall determine the following:

(1) There is no other location on the site for the proposed small wind energy system or the solar energy system which would result in a less conspicuous or more aesthetically pleasing installation.

(2) The tower part of the small wind energy system is painted or otherwise colored using the best technology available to blend with the surrounding environmental characteristics and to make such tower the least obtrusive as possible. In addition, the tower's finish shall be rust-resistant and non-reflective. The design of the solar energy system shall, to the extent reasonably possible, including rooftop installations, use materials, colors, textures, screening and landscaping that will blend into the natural setting and existing environment.

(3) The wind turbines portion of the small wind energy system is a non-obtrusive color such as white, off-white or gray.

(4) The small wind energy system shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

(b) In addition, the Planning Commission may recommend any type of screening, whether natural or otherwise, to minimize the visual and aesthetic impact the proposed small wind energy system or the solar energy system will have on neighboring properties.

(c) Upon completion of its review and determinations, the Planning Commission shall make its recommendation of approval or disapproval of the application for either the small wind energy system or the solar energy system to the City Council. City Council may accept the recommendation of the Planning Commission, accept with modifications the recommendation of the Planning Commission or reject the recommendation of the Planning Commission. Upon City Council approving the application, the Building Commissioner shall issue a permit for the installation of the small wind energy system or the solar energy system consistent with the approved plans.

(Ord. 4501, passed 8-18-09; Am. Ord. 4567, passed 6-1-10)

§ 1186.06 DEVIATIONS FROM SPECIFIC REQUIREMENTS.
The Planning Commission may recommend for approval to City Council deviations from the specific requirements contained in this chapter. The specific reasons and rationale for the deviations from Code requirements shall be documented in the Commission's minutes and report to Council.

Any applicant for a permit for either a small wind energy system or a solar energy system who desires to deviate from any of the regulations contained in this chapter shall make application to the Planning Commission for such deviation. The application shall be on forms as provided by the Building Commissioner. The applicant shall pay a fee in the amount of $50 to defray administrative and publication costs associated with the request for a deviation. This fee shall be in addition to any other permit fee required in the Codified Ordinances of the city, including but limited to § 1186.07. The application for a deviation shall be administered as follows:

1. A public hearing shall be held on any application for a deviation pending before the Planning Commission involving a deviation from the provisions contained in this chapter. Public hearings shall be held after at least ten (10) days prior notice thereof has been published once in any publication having general circulation within the city.

2. Deviations from the regulations contained in this chapter may be recommended for approval by the Planning Commission, if the Commission finds that:

   A. Strict application or enforcement of the regulations contained in this chapter imposes an unnecessary hardship upon the applicant because of conditions unique or peculiar to the premises upon which the small wind energy system or solar energy system is to be located or is currently located, which conditions are not common to other properties and were not voluntarily created by the property owner, any occupant thereof or any predecessor in interest.

   B. Denial of the requested deviation will unnecessarily deprive the owner or occupant of a substantial property right without thereby promoting the public health, safety or welfare.

   C. The deviation requested would be in general harmony with the purpose and intent of the regulations contained in this chapter.

3. All deviations granted by the Planning Commission shall be subject to review and approval by a majority vote of all members of Council before becoming effective. All decisions of City Council concerning a request for a deviation shall be final.

4. Unless the small wind energy system or solar energy system for which a deviation has been approved is constructed or is under substantial construction within six (6) months from the date a permit has been issued, the deviation or deviations shall automatically
expire and become null and void upon the expiration of the six (6)-month period.
(Ord. 4567, passed 6-1-10)

§ 1186.07 FEES.

(a) The applicant shall submit the following fees with each application for either a small wind energy system or a solar energy system:

1. Application for Planning Commission $50.00
2. Review deposit $500.00
3. Building permit $100.00

(b) Any physical modification to an existing permitted small wind energy system or solar energy system that materially alters the size, type and number of wind turbines for small wind energy systems or other equipment for either system shall require re-application and approval as set forth in this chapter for original approval. Like-kind replacements of a small wind energy system or solar energy system as determined by the Building Commissioner shall not require review or recommendation by the Planning Commission but shall comply with all other provisions set forth in this chapter as is required for an original application.

(Ord. 4501, passed 8-18-09; Am. Ord. 4567, passed 6-1-10)

§ 1186.08 CLIMB PREVENTION/LOCKS.

(a) Small wind energy systems shall be designed so as to not be climbable up to fifteen (15) feet above ground surface.

(b) All access doors to small wind energy systems and its electrical equipment shall be locked or fenced, as appropriate and consistent with the Building Codes of the city, to prevent entry by non-authorized persons.

(Ord. 4501, passed 8-18-09; Am. Ord. 4567, passed 6-1-10) Penalty, see § 1186.99

§ 1186.09 DISMANTLING AND REMOVAL OF SOLAR ENERGY AND SMALL WIND ENERGY SYSTEMS.
(a) If the property upon which a small wind energy system or solar energy system is located is sold or otherwise transferred, the seller or conveyer of such premises shall cause the small wind energy system or solar energy system to be dismantled completely, including all support structures and appurtenances, and removed from the property. However, if the purchase contract or other means of conveyance provides specifically for the wind turbine facility or solar energy system to remain in place for use by the successive possessor of the property, then this provision shall not apply.

(b) In the event the small wind energy system or solar energy system is in any way abandoned, placed out of service for more than six (6) months, neglected or becomes dilapidated, unsightly or in a state of disrepair, the owner or occupier of the lot upon which such small wind energy system or solar energy system is located shall cause the small wind energy system or solar energy system to be dismantled completely, including all support structures and appurtenances, and removed from the property.

(c) The owner and any subsequent purchaser or transferee of a small wind energy system or solar energy system shall be required to post and maintain a surety bond, or other form of guarantee as approved by the Director of Law, in an amount as reasonably determined by the Building Commissioner which is equal to the cost of removing a small wind energy system or solar energy system in the event the owner or occupier of the property fails to so do as required in this chapter.

(Ord. 4501, passed 8-18-09; Am. Ord. 4567, passed 6-1-10) Penalty, see § 1186.99

§ 1186.10 EXEMPTIONS FOR SOLAR ENERGY SYSTEMS AND SMALL WIND ENERGY SYSTEMS LOCATED ON CITY-OWNED PROPERTY.

Notwithstanding any other provision contained in this chapter, any small wind energy system or solar energy system located on property owned by the city is exempted from any provision of this chapter.

(Ord. 4501, passed 8-18-09; Am. Ord. 4567, passed 6-1-10)

§ 1186.99 PENALTY.

Whoever violates any provision contained in this chapter shall be deemed guilty of a misdemeanor of the fourth degree.

(Ord. 4501, passed 8-18-09; Am. Ord. 4567, passed 6-1-10)
CHAPTER 1187: SIGN REGULATION

Section

1187.01 Intent
1187.02 Establishing regulations
1187.03 Classification of signs
1187.04 Measurement standards
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Nonconforming buildings, land and use definitions, see § 1113.17

Sign definitions, see § 1113.20

Sign permit fees, see § 1314.12

Signs in parking areas, see § 1183.15(c)

Use definitions, see § 1113.24
§ 1187.01 INTENT.

Regulations are hereby established to control the type, design, size, location and maintenance of signs in order to achieve the following:

(a) To promote and maintain high quality residential districts and attractive public facilities;

(b) To provide for appropriate signs for identifying businesses by relating the size, type and design of signs to the type, size and nature of the establishment;

(c) To control the design and size of all signs so that they will be harmonious with their surrounding areas;

(d) To provide a safe environment by eliminating any conflict between advertising or identification signs and traffic-control signs which would be hazardous to the safety of the public;

(e) To control temporary signs and prohibit undesirable impacts on property values and neighborhood character; and

(f) In business districts, to provide for appropriate signs for advertising goods or services rendered in keeping with the type of establishment involved.

(64 Code, § 1187.01) (Ord. 3062, passed 1-16-90)

§ 1187.02 ESTABLISHING REGULATIONS.

(a) Signs shall be designed, erected, altered, reconstructed, repaired, moved and maintained in accordance with the type, design, size, location, illumination and other provisions set forth in this chapter.

(b) The construction, erection, safety and maintenance of all signs shall be in accordance with the city Building Code.

(c) The provisions of this chapter shall not amend the other codes, rules or regulations governing traffic signs within the city.

(d) In addition to the regulations set forth in this chapter, signs within the Towne Centre boundaries shall also be subject to any special provisions, restrictions or criteria approved
§ 1187.03 CLASSIFICATION OF SIGNS.

**SIGN** means any display, figure, painting, drawing, placard, poster or other device visible from a public way, which is designed, intended or used to convey a message or direct attention to a building, person, institution, organization, activity, place, object or product.

(a) Classification by use type.

(1) Permanent signs.

A. **BILLBOARD** means one which directs attention to a specific business, product, service, entertainment or other activity sold, offered or conducted elsewhere than upon the same lot on which the sign is located.

B. **BULLETIN BOARD** means an announcement sign which directs attention to and is located on the lot which is the subject of such sign.

C. **DIRECTIONAL SIGN** means one indicating the direction pedestrian or vehicular traffic is requested to move on that location, and does not include any business identification information.

D. **IDENTIFICATION SIGN** means one indicating the name and address of a building, development, public or semi-public facility, business, office or industrial establishment. Such signs may also include the names of tenants, general types of goods sold, or services rendered; however, the listing of specific goods or services, brand names, prices, sales or telephone numbers shall not be permitted.

E. **INFORMATION SIGN** means one which presents miscellaneous information intended to serve the public. Typical signs present travel information, vehicle service, weather, time, historic and scenic sites, recreation facilities, and the like. An informational sign may be permitted in any District upon approval by the Planning Commission. "Open" illuminated signs may be permitted only in business districts.

F. **NAMEPLATE** means one which indicates the name, address or profession of a person or persons occupying a building or unit of a building.

G. **HANDICAPPED PARKING** means a sign indicating a parking area reserved for a vehicle exhibiting a state issued disabled persons parking permit or license plate. The sign shall be: eye level, blue with the standard white profile of a wheelchair and
occupant in the center. The sign may also include the warning statement “Unauthorized vehicles will be towed away at the owners expense.”

H. **DIRECTORY SIGN** means one which lists names of tenants or organizations in a building. This sign may be combined with another permitted type of sign.

I. **ADDRESS SIGN** means one consisting of numbers identifying a property or building unit address. A sign permit is required when the height of address numbers are proposed to be in excess of twelve (12) inches.

(2) *Temporary signs.* **TEMPORARY SIGN** means a sign designed for use for a limited period of time.

A. **PROJECT SIGN** means one indicating the promotion, development and construction on the property on which it is located of a project where the city has approved the final development plans and could include the owner, architects, engineers, contractors and other individuals or firms involved with the construction.

B. **REAL ESTATE SIGN** means a ground sign calling attention to rental, sale, or lease of property where it is posted or a temporary activity taking place on the property where it is posted like a party or garage sale.

C. **SALE SIGNS** means a window sign, such as “sale,” “special,” “clearance,” symbolic or graphic signs, such as a red heart for Valentine's Day, or identifying prices and/or items for sale.

D. **SPECIAL EVENT SIGNS** means one which may be in the street right-of-way, or displayed as a window sign or other locations approved by the Planning Commission announcing a public function.

E. **SPECIFIC PRODUCT SIGN** means one which only indicates a specific class of products or product from a company.

F. **TEMPORARY DIRECTIONAL SIGN** means a ground sign directing vehicular or pedestrian traffic to a temporary activity taking place at another, but nearby, location such as an open house sign for the sale of real estate.

G. **POLITICAL SIGN** means any sign used for the purpose of endorsing, supporting, advocating or opposing any candidate for elective office or any issue which will be placed before the electorate at any general, primary, special or other election.

(b) *Signs by structural type.*

(1) **AWNING SIGN** means one painted, attached, embossed or affixed to a permanent or retractable awning.
(2) **CANOPY SIGN** means one painted, embossed, affixed or attached to the soffit or fascia of a canopy, covered entrance or under a walkway, or to a permanent awning or marquee and not projecting beyond the edges of same.

(3) **GROUND SIGN** means one free standing with not more than two faces which has a supporting base designed as an integral part of the sign resting on the ground.

(4) **POLE SIGN** means one free-standing with one or not more than two faces, which is supported wholly by a pole or poles designed to allow pedestrian or vehicular access thereunder.

(5) **PROJECTING SIGN** means one erected on the outside wall of a building and projecting out at a 90° angle.

(6) **ROOF SIGN** means one erected partly or completely on or over the roof of any building or over any portion of the building covered by roofing materials or which serves to shed rainwater.

(7) **WALL OR PANEL SIGN** means one integral with the face of an exterior wall of a building or attached to the wall or parallel with the wall.

(8) **WINDOW SIGN** means a permanent or temporary sign painted on or attached or affixed to the interior or exterior surface of windows or doors of a building or any interior sign within three feet of windows or doors.

(9) **PORTABLE OR MOBILE SIGNS** means one which is designed to be moved with or without wheels.

(10) **CHANGEABLE COPY SIGN** means one where the message or graphics is not permanently affixed and may be periodically replaced, or covered over.

(c) **Signs by sign face type.** For the purpose of establishing sign face area measurement standards, all signs are defined by sign face type as follows:

(1) **PANEL SIGN** means one whose information is displayed on a generally flat surface. Such panel may be either a structural object or a portion of the surface of a structure.

(2) **NONPANEL SIGN** means one consisting of letters or characters which are individually attached to or painted on a building wall, window, door or other structural element not designed or differentiated as a sign panel.

(3) **THREE-DIMENSIONAL OBJECT SIGN** means one which takes the form of a three-dimensional object, such as a sphere, and also including any sign with three or more sides used as sign panels.
(d) **Unit of a building.** As used in this chapter in the determination of maximum sign face area, the term **BUILDING UNIT** refers to a space occupying a portion of the ground floor of a building, containing an entrance from the building exterior, and separated from other such spaces by a party wall or walls.

('64 Code, § 1187.03) (Ord. 3062, passed 1-16-90; Am. Ord. 3352, passed 6-7-94; Am. Ord. 3740, passed 7-6-99)

§ 1187.04 **MEASUREMENT STANDARDS.**

(a) Sign face area, sign height and sign location, as regulated in this chapter, shall be measured according to the following standards.

1. **Measurement of sign face area.** For the sign types defined in § 1187.03(d), sign face area shall be measured as follows:

   A. Panel signs. Area shall be measured to include the entire enclosed surface area. The area of both sides of double-sided signs shall be included in the measurement.

   B. Nonpanel signs. Area shall be measured to include the surface area of the smallest single rectangle completely enclosing all of the letters or characters of the sign.

   C. Three-dimensional object signs. Area shall be measured to include all surface area which forms a part of the message conveyed by a sign. Such measurement, along with necessary calculations, shall be submitted by the applicant with the application.

2. **Measurement of building and lot frontage.**

   A. Building frontage. The frontage of a building shall be the width of the facade which faces the principal street in a business district. The Planning Commission may allow, as additional building frontage, the width of other facades of the building which contain the public entrances and faces the required parking areas. If a building is divided into units, the building unit frontage shall be the width of that unit, as measured from the party wall centerlines.

   Buildings located adjacent to a freeway shall not be considered to have their frontage on the freeway for sign area calculations and for signage location purposes.

   B. Lot frontage. The frontage of a lot shall be the number of lineal feet the lot abuts on the principal street.

(b) **Sign height.** The height of signs supported from the ground shall be measured from the base of the sign at its point of attachment to the ground to its topmost element.
However, if such sign is attached to a wall or other human-made base, including a graded earth mound, the sign height shall be measured from the grade of the general area.

(c) **Sign location.** In determining the location of signs in relation to lot lines (including district and street lines), distances shall be measured from the vertical projection of the lot line (LL) or street right-of-way (ROW) to the closest point on the sign.

(‘64 Code, § 1187.04) (Ord. 3062, passed 1-16-90; Am. Ord. 3352, passed 6-7-94) Penalty, see § 1187.99

**§ 1187.05 DESIGN STANDARDS.**

In order to facilitate legibility of information, traffic safety, and economic vitality, signs shall be of professional quality, designed in a manner compatible with the character and style of the buildings on which they are located, adjoining buildings and neighboring signs. Signs shall be structurally sound and located so as to pose no safety hazard.

(a) **Style and color.** A sign shall be generally consistent throughout the particular building or block involved and the color of signs shall be compatible with the color of the building facade, and other existing signs. No more than four (4) compatible colors may be used on any sign (including the sign face and base).

(b) **Lettering.** The lettering on a sign shall be large enough to be easily and safely read from the normal visual location. However, the lettering shall not be overly large or out of scale with the building. An excessive amount of information that could create a potential safety hazard shall not be permitted.

(c) **Materials.** Signs shall be fabricated on and of materials of good quality, good weathering and durability and complimentary to their building. Outdoor signs and display structures, including the supporting structure and all parts, shall be of noncombustible material when required by the Building Code.

(d) **Illumination.**

(1) **External.** External illumination may be permitted when direct rays from external light sources to illuminate signs have adequate shielding to prevent these rays from shining around or underneath the signs or onto adjacent residential buildings and streets and shall not be of high intensity or brightness so as to cause glare hazardous to pedestrians or auto drivers or so as to cause reasonable objection from adjacent buildings. External illumination may be from the front or rear of the sign.

(2) **Internal.** Internal illumination may be permitted only on free-standing
ground identification signs located only in Business Districts and Industrial Districts provided the illumination is limited to business logo or individual letters of a business name and shall exclude all background areas of the sign face. "Open" signs which are located in business districts may be illuminated.

(e) *Movement restrictions.* No sign shall revolve, rotate, whirl, spin, flash or otherwise make use of motion to attract attention, except to perform a public service function such as indicating time or temperature.

(f) *Relation to traffic devices.* Signs visible from the sight lines along a street shall not contain an arrow or words such as “stop,” “go,” “slow,” and the like; and the movement, content, coloring or manner of illumination shall not resemble traffic-control signs or signals.

(‘64 Code, § 1187.05) (Ord. 3062, passed 1-16-90; Am. Ord. 3352, passed 6-7-94; Am. Ord. 3740, passed 7-6-99) Penalty, see § 1187.99

§ 1187.06 LOCATION AND DIMENSION LIMITATION STANDARDS.

Signs, as permitted, shall be located and sized according to the standards set forth in this section and the individual Zoning Districts.

(a) *Location.*

(1) *Corner lots.* No sign shall be allowed on a lot within a triangle formed between points on the front and side street right-of-way lines within 20 feet from their intersection.

(2) *Signs over pedestrian or vehicular ways.* The lowest member of these signs shall not be less than eight feet above the finished grade of a pedestrian way. If located over a pavement used for vehicular traffic, the signs shall be not less than 15 feet above the finished pavement and at least one foot away from the vertical projection of the edge of the pavement.

(3) *Relation to traffic devices.* Signs shall not be erected so as to obstruct sight lines of pedestrians or motorists along any public way, from traffic-control devices, street name signs at intersections, or signals at railroad grade crossings.

(4) *Relation to openings.* Signs shall not project over or obstruct the required-windows or doors of any building, fire escape or interfere with other safety provisions.

(5) *Street right-of-way and public land.* No signs shall be located in street rights-of-way and/or public lands except for municipal and governmental signs.
(b) Dimension limitations.

(1) Ground sign. Sign height shall not exceed six feet in Industrial Districts and five feet in all other districts including a supporting base from the average ground level except as otherwise specifically permitted in this chapter. Architectural elements approved by the Planning Commission may exceed these height limitations by one foot.

(2) Wall or panel signs. These signs shall not project more than one foot from the building wall to which it is attached and shall not project above the building wall.

('64 Code, § 1187.06) (Ord. 3062, passed 1-16-90; Am. Ord. 3740, passed 7-6-99) Penalty, see § 1187.99

§ 1187.07 PROHIBITED SIGNS.

The following types of signs are not permitted in any zoning district.

(a) Advertising signs on vehicles, such as parked trucks or trailers on private or public property visible from a public street which has attached thereto or located thereon any sign or advertising device for the basic purpose of directing attention to products, business activity, sold on the premises upon which such vehicle is located except those on commercial delivery and service vehicles provided the signs are limited to the display of business name, address, phone number and do not exceed five square feet per sign. The signs are further limited to one sign per side of vehicle not to exceed three signs.

(b) Billboards as defined in § 1187.03(a)(1).

(c) Flashing, animated or moving signs of any sort, including revolving signs except as defined in § 1187.05(e).

(d) Gas filled balloons, search lights, Pennants or streamers for or associated with advertising purposes.

(e) Pole signs, as defined in § 1187.03(b)(4).

(f) Portable or mobile signs, as defined in § 1187.03(b)(9).

(g) Roof signs, as defined in § 1187.03(b)(6).

(h) Signs on street right-of-way and public lands including any curb, sidewalk, post, pole, hydrant, bridge, wall, tree or other surface located on public property except as may be permitted in §§ 1187.06(a)(5) and 1187.13(c)(3).
(i) *Traffic related devices*, as defined in § 1187.05(h).

(j) *Internally illuminated window signs*, except information signs as defined in § 1187.03(a)(1)E.

(k) *Free standing signs*, located along freeways as defined in § 301.15 of the Codified Ordinances of the city, designed to be visible to freeway traffic.

(l) *Changeable copy signs* - with the exception of bulletin board signs permitted in community facilities uses.

(m) *Signs not specifically* permitted by district under §§ 1187.08 through 1187.13. ('64 Code, § 1187.07) (Ord. 3062, passed 1-16-90) Penalty, see § 1187.99

### § 1187.08 SIGNS IN RESIDENTIAL DISTRICTS.

Signs in residential districts shall be designed, erected, altered, relocated and maintained in accordance with the regulations as provided in this chapter. For community facilities uses located in residential districts, the regulations of § 1187.11 shall apply.

(a) *Schedule of residential signs permitted by use and structural type:*

<table>
<thead>
<tr>
<th>Use Type of Sign</th>
<th>Name Plate</th>
<th>Identification</th>
<th>Directional</th>
</tr>
</thead>
<tbody>
<tr>
<td>One-Family Detached Dwelling</td>
<td>wall/ground</td>
<td>ground</td>
<td>prohibited</td>
</tr>
<tr>
<td>Attached and Multi-Family Dwellings</td>
<td>wall</td>
<td>ground</td>
<td>wall/ground</td>
</tr>
</tbody>
</table>

(b) *Schedule of Residential Signs Regulations.* Signs as permitted shall conform to the number, area, height, locations and any other requirements of this chapter.

<table>
<thead>
<tr>
<th>Type of Sign</th>
<th>Maximum Number</th>
<th>Maximum Size of Single Face Area (feet)</th>
<th>Maximum Height (feet)</th>
<th>Location Minimum Set Back (Feet)</th>
<th>Other Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nameplate</td>
<td>1/unit</td>
<td>2</td>
<td>3 ground</td>
<td>10 from side lot</td>
<td>Name and/or</td>
</tr>
</tbody>
</table>
### § 1187.08 SIGNS IN RESIDENTIAL AREAS.

<table>
<thead>
<tr>
<th>Type of Sign</th>
<th>Maximum Number</th>
<th>Maximum Size of Single Face Area (feet)</th>
<th>Maximum Height (feet)</th>
<th>Location Minimum Set Back (Feet)</th>
<th>Other Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identification</td>
<td>1/street</td>
<td>20</td>
<td>5</td>
<td>10 from ROW 15 from lot line. See § 1187.08(c)(3).</td>
<td>35 feet from any 1 or 2 family residence (See § 1187.06(a)(1))</td>
</tr>
<tr>
<td>Directional</td>
<td>1</td>
<td>2</td>
<td>5 (wall) 3 (ground)</td>
<td>5 from side lot line</td>
<td></td>
</tr>
</tbody>
</table>

(c) Special Provisions.

(1) Identification sign illumination may be permitted as approved by the Planning Commission.

(2) Room rental signs are prohibited.

(3) Development identification signs shall be located within an easement area dedicated for that sign and such easement shall be depicted on the development plat. The homeowners association bylaws or other covenants and deed restrictions shall include provisions for maintenance of the sign.

(‘64 Code, § 1187.08) (Ord. 3062, passed 1-16-90; Am. Ord. 3740, passed 7-6-99) Penalty, see § 1187.99

### § 1187.09 SIGNS IN BUSINESS DISTRICTS.

Signs in business districts shall be designed, erected, altered, relocated and maintained in accordance with the regulations as provided in this chapter. For community facilities uses
located in Business Districts, the regulations of § 1187.11 shall apply.

(a) Schedule of business signs permitted by use and structural type:

**All Districts:**

Office Buildings, Local Business, Shopping Center, Commercial Service, and Motor Service, and Office Park

**Identification:**

Ground, canopy, and window (wall except in Office Districts)

**Directional:**

Ground, wall

(b) Measurement standards for maximum sign area. The maximum (total) area of all permanent signs permitted for a building or building unit to which the signs are accessory, shall be related to the building and building unit width. Maximum sign face area (square feet) shall be determined according to the measurement standards of § 1187.04 and the formulas below where “W” is the front age width of the building.

(1) Maximum sign area per building. Maximum permanent sign area (square feet) for all permitted signs for a building is based on “W” the frontage width (feet) of the building as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum Sign Area (square feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office Building</td>
<td>W x .75</td>
</tr>
<tr>
<td>Local Business</td>
<td>W x 1.00</td>
</tr>
<tr>
<td>Shopping Center</td>
<td>W x 1.00</td>
</tr>
<tr>
<td>Commercial Service</td>
<td>W x 1.00</td>
</tr>
<tr>
<td>Motor Service</td>
<td>W x 1.00</td>
</tr>
<tr>
<td>Office Park</td>
<td>W x .50</td>
</tr>
</tbody>
</table>

(2) Maximum building or building unit exterior sign area. The maximum permanent sign face area allowed on the exterior frontage of the building and each building unit
shall be determined by the formula: (Building or building unit frontage width) $W \times 0.75$. Window or projecting signs are not included in this measurement.

(3) **Maximum sign area per building unit.** The maximum allowable area (square feet) of all permanent signs for an individual unit of a building shall be a direct percentage of that building unit's frontage width to the building total frontage width of the maximum sign area of the building from § 1187.09(b)(1).

(c) **Schedule of Business Sign Regulations.** Signs as permitted shall conform to the number, area, height, location and any other requirements of this chapter:

<table>
<thead>
<tr>
<th>Type of Sign</th>
<th>Maximum Number</th>
<th>Maximum Size of Single Face Area (square feet)</th>
<th>Maximum Height (feet)</th>
<th>Location Minimum Set Back (feet)</th>
<th>Other Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identification</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Ground)</td>
<td>1/zoning lot</td>
<td>30</td>
<td>5</td>
<td>5 from ROW 25 from lot line</td>
<td>Minimum 100 ft. from residential district line.</td>
</tr>
<tr>
<td>(Wall)</td>
<td>1/unit</td>
<td>&quot;$W&quot; x .75</td>
<td>3 on sign</td>
<td>Front of Building</td>
<td>3 ft. minimum from end of building unit.</td>
</tr>
<tr>
<td>(Canopy or awning)</td>
<td>1</td>
<td>5</td>
<td>8 inches</td>
<td></td>
<td>Business name only</td>
</tr>
<tr>
<td>(Door/ Window)</td>
<td>1</td>
<td>2</td>
<td></td>
<td>Door</td>
<td>Business name and address**</td>
</tr>
<tr>
<td>(Name-plate)</td>
<td>1</td>
<td>2</td>
<td></td>
<td>Door/wall</td>
<td>Business name</td>
</tr>
<tr>
<td>(Window*)</td>
<td>1/unit</td>
<td>5</td>
<td></td>
<td>Front of building</td>
<td>Permitted in lieu of wall sign.</td>
</tr>
<tr>
<td>Directional</td>
<td>2</td>
<td>2</td>
<td>3 if ground</td>
<td>1 from ROW 5 ft. from side lot line</td>
<td>Minimum 10 feet from residential line.</td>
</tr>
</tbody>
</table>
Brecksville, Ohio Code of Ordinances

<table>
<thead>
<tr>
<th>Type of Sign</th>
<th>Maximum Number</th>
<th>Maximum Size of Single Face Area (square feet)</th>
<th>Maximum Height (feet)</th>
<th>Location Minimum Set Back (feet)</th>
<th>Other Requirements</th>
</tr>
</thead>
</table>

*Provided that the total of all window signs, temporary and permanent, do not exceed 25% of the total window area.

**Emergency off-site telephone number with numbers not to exceed two (2) inches in height.

(d) **Special provisions.**

(1) **Uses within enclosed mall or arcade.** Uses (building units) with entrances located only within an “enclosed” hall or arcade are not counted in the computation of the maximum permitted sign area per building.

(2) **Uses (building units) above the ground floor.** Signs for business or other uses (building units) above the ground floor of a building are not covered by the sign regulations of §§ 1187.09(a) through 1187.09(c). However, each external facing building unit above the ground floor shall be entitled to one identification wall or window sign not exceeding three square feet in area. Such wall sign shall be located on an inside wall either on the upper floor or on an entrance to the upper floor.

(3) **Multi-unit building service entrances.** Multi-unit building service entrances, may be identified by the business name and address on a permanent nameplate not exceeding two square feet in single face sign area located on or near the service entrance. The service entrance signs shall be permitted in addition to the signs listed in § 1187.09(c). The area shall be permitted in addition to the maximum permanent sign area of § 1187.09(b)(1).

(4) **Gasoline and automobile service stations.** Such signs shall conform to the district regulations in which they are located, except as permitted below.

A. All gasoline and service stations shall be permitted one free-standing permanent identification sign for and on each street the station fronts on.

B. Maximum sign face area, for each sign displaying only the price of gasoline and diesel fuel is four square feet per fuel type. No more than two fuel price signs shall be permitted per street frontage. Sign face area for price signs shall be part of the identification sign requirement. No other specific goods price signs are permitted.

C. Where building main frontage is less than 40% of maximum lot
width, the maximum sign face area permitted may be increased up to 25% by the Planning Commission.

D. Permanent information signs at fuel pumps and service islands are permitted. Such signs shall be limited to the display of information regarding the type of service provided and other information essential in directing and instructing the motoring public, as approved by the Planning Commission.

(5) Open space uses. For purposes of this section, an OPEN SPACE USE shall be any use permitted in a business district for which the width at the main or principal building represents 20% or less of the main frontage of its lot. For such uses, maximum sign face area for all permanent signs shall be determined by the frontage of the lot x 0.5. However, maximum sign face area shall not exceed 150 square feet for a lot.

(6) Projection sign. A projection identification may be permitted in lieu of a permitted wall or window identification sign. Projections shall not extend more than three feet from the face of a building and less than eight feet above the finished grade of a sidewalk. Maximum single sign face area shall not exceed nine square feet. The Planning Commission may allow additional projection identification signs designed solely for pedestrian traffic and not exceeding 1.5 square feet per sign.

(7) Identification sign.

A. Wall identification signs on the frontage of a building may include up to 25% of its area listing the general type of goods sold or services rendered except in Office Districts.

B. Individual business identification signs in an area containing more than one building or in a multi-business unit building, where permitted, shall be limited to wall signs attached to the building or unit thereof, except as specifically permitted in § 1187.09(d)(7)C.

C. Ground identification signs for multi-business unit buildings may include names of individual businesses when:

1. The height of letters in the development/building name and addresses are larger than the individual business names and occupy at least 20% of the sign area.

2. Height of letters in the names of the individual businesses are at least four (4) inches. The style of all lettering shall be the same.

3. An area (provision for "lease/rental information") may be designated as a permanent part of the sign. An additional three (3) square feet of sign area may be allowed specifically for lease/rental information.
4. Changes of individual business names on the sign may be permitted by the Building Commissioner under the same conditions as the existing sign. The height, style and color of letters for the replacement business name shall be the same as those previously approved for the sign.

(8) Awnings signs. The name of the business may be placed in a space not exceeding eight inches in height located on the front and side portions of the awning and signage on an awning shall be considered as part of the total signage allowed.

(9) Multiple streets. Buildings or building units having a facade fronting on a second street are permitted signs and sign face area for that second street in addition to that otherwise permitted by regulations of this chapter. The additional sign face area shall be based on the building or unit secondary frontage, but shall not exceed 30% of the maximum sign face area permitted. The number of additional signs by use and structural type shall not exceed the number of signs otherwise permitted for the primary street.

(10) Office building and office park.

A. Building identification signs shall be permitted only over the main entrances of the building.

B. Individual tenant identification signs shall be permitted only on the ground identifying the building and address. Multiple tenant building ground identification signs, if used for tenant identification, shall be designed to incorporate the individual tenant names.

(11) Signs not requiring a permit. The following signs may be displayed without permit provided the signs are professionally designed and displayed according to the established criteria:

A. Sale signs, specific product signs and special event signs. Temporary sale signs and special event signs as defined in §§ 1187.03(a)(2)C., 1187.03(a)(2)E. and 1187.03(a)(2)D., respectively, may be displayed as window signs defined in § 1187.03(b)(8) without permit provided the following criteria are met:
   1. Total signs displayed do not exceed 25% of the total window area of a building elevation.
   2. Each sign is limited to a maximum area of five square feet.
   3. Total signs displayed for each building unit, including both temporary and permanent signs, is limited to a maximum of two signs or one sign per eight feet of lineal window frontage, whichever is greater.
   4. A permit is required to display a sign longer than 60 days.
5. Business identification is not permitted as part of the sale sign.

B. Signs displayed days and hours of operation. Each building unit shall be allowed one sign displaying days and hours of operation not exceeding 1.5 square feet to be located on the door to the main entrance or window area adjacent to the main entrance.

C. Business address. Each building shall be allowed to display its numerical mailing address not exceeding 1.5 square feet to be displayed in one location on either the door to the main entrance or secured to the wall or window above the main entrance.

D. Non-illuminated open or closed signs. Each building unit shall be allowed to display an "open" or "closed" non-illuminated sign not exceeding 2.0 square feet in the window area.

(12) Directory multi-tenant signs may be permitted in addition to other signage within the total allowable signage area for the development. The size and location shall be approved by the Planning Commission.

(13) Illuminated "open" signs. An illuminated "open" sign shall be permitted to be located on the inside of a window of the business which it serves and be limited to one (1) square foot in total area and one color.

('64 Code, § 1187.09) (Ord. 3062, passed 1-16-90; Am. Ord. 3352, passed 6-7-94; Am. Ord. 3740, passed 7-6-99) Penalty, see § 1187.99

§ 1187.10 SIGNS IN INDUSTRIAL DISTRICTS.

Signs in office laboratory and manufacturing distribution districts shall be designed, erected, altered, moved and maintained in accordance with the provisions as contained in this chapter.

(a) Schedule of Industrial Signs Permitted by Use and Structural Type.

Districts:

Office Laboratory, and Manufacturing Distribution

Identification:

Ground, wall, canopy

Directional:
Ground, wall

(b) Measurement standards for maximum sign area. The maximum (total) area of all permanent signs permitted for each building or building unit shall be related to the building and building unit width and shall be determined according to the measurement standards of § 1187.04 and the formulas below.

(1) Maximum sign area per building. Maximum sign area in square feet for all permitted signs for a building is based on “W” the front age width in feet of the building as follows:

Office-Laboratory and Manufacturing-Distribution

“W” x 1

(2) Maximum building or building unit exterior sign area. The maximum permanent sign face area (square feet) allowed on the exterior frontage of the building or the frontage (entrance) for each building unit shall be determined by the formula:

Building or building unit (frontage entrance) width x 0.5

(c) Schedule of industrial sign regulations. Signs as permitted shall conform to the number, area, height, location and any other requirements of this chapter:

<table>
<thead>
<tr>
<th>Type of Sign</th>
<th>Maximum Number</th>
<th>Maximum Size of Single Face Area (square feet)</th>
<th>Maximum Height (feet)</th>
<th>Location Minimum Set Back (feet)</th>
<th>Other Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identification (Ground)</td>
<td>1/zoning lot</td>
<td>40</td>
<td>6</td>
<td>40 from ROW 40 from lot line</td>
<td>Minimum 100 ft. from residential development and/or business.</td>
</tr>
<tr>
<td>Identification (Wall)</td>
<td>1/unit</td>
<td>“W” x 0.50</td>
<td>3</td>
<td>Unit main entrance wall or frontage</td>
<td></td>
</tr>
<tr>
<td>(Canopy)</td>
<td>1</td>
<td>6</td>
<td>1 (vertical dimension)</td>
<td>Building</td>
<td>Business name only</td>
</tr>
<tr>
<td>Directional</td>
<td>2</td>
<td>2</td>
<td>3 if ground 5 if on wall</td>
<td>5 from ROW; 15 from side lot line</td>
<td></td>
</tr>
<tr>
<td>Type of Sign</td>
<td>Maximum Number</td>
<td>Maximum Size of Single Face Area (square feet)</td>
<td>Maximum Height (feet)</td>
<td>Location Minimum Set Back (feet)</td>
<td>Other Requirements</td>
</tr>
<tr>
<td>-------------</td>
<td>----------------</td>
<td>---------------------------------------------</td>
<td>----------------------</td>
<td>-------------------------------</td>
<td>-------------------</td>
</tr>
</tbody>
</table>

(d) **Special provision.**

(1) **Industrial park or multi-building developments.** In addition to the signs permitted in this section, one ground identification sign may be permitted for an industrial park planned development or unified multi-building development of three or more industrial buildings serviced by an interior industrial street. This sign shall only identify the name and address of the industrial park or multi-building development. Maximum single face area shall not exceed 40 square feet and maximum height shall be six feet. This sign shall be located at the vehicular entrance to the industrial park or multi-building development and shall be set back a minimum of 25 feet from the right-of-way and side lot line.

(2) **Multi-unit building service entrances.** Multi-unit building service entrances may be identified by the business name and address on a permanent nameplate not exceeding two square feet in single sign face area located on or near the service entrance. The service entrance signs and area shall be permitted in addition to the area and signs listed in §§ 1187.10(b) and 1187.10(c) respectively.

(3) **Multi-tenant ground identification signs for multi-business unit buildings.** Ground identification signs for multi-unit buildings may include names of individual businesses when:

A. The height of letters in the development/building name and addresses are larger than the individual business names and occupy at least 20% of the sign area.

B. Height of letters in the names of the individual businesses are at least five (5) inches. The style of all lettering shall be the same.

C. An area (provision for "lease/rental information") may be designated as a permanent part of the sign. An additional four (4) square feet of sign area may be allowed specifically for lease/rental information.

D. Changes of individual business names on the sign may be permitted by the Building Commissioner under the same conditions as the existing sign. The height, style and color of letters for the replacement business name shall be the same as those previously approved for the sign.

(64 Code, § 1187.10) (Ord. 3062, passed 1-16-90; Am. Ord. 3352, passed 6-7-94; Am. Ord.
§ 1187.11 SIGNS IN COMMUNITY FACILITIES DISTRICTS.

Signs in community facilities districts shall be designed, erected, altered, relocated, and maintained in accordance with the regulations as contained in this chapter.

(a) **Schedule of community facilities signs permitted by use and structural type.**

**Identification:** Ground, wall

**Bulletin Board:** Ground, wall

**Directional:** Ground

(b) **Schedule of community facilities sign regulations.** Signs as permitted shall conform to the number, area, height, location and any other requirements of this chapter:

<table>
<thead>
<tr>
<th>Type of Sign</th>
<th>Maximum Number</th>
<th>Maximum Size of Single Face Area (square feet)</th>
<th>Maximum Height (feet)</th>
<th>Location Minimum Set Back (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Identification</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Ground)</td>
<td>1 each zoning lot</td>
<td>30 two sides permitted</td>
<td>5</td>
<td>15 from ROW; 50 from lot line</td>
</tr>
<tr>
<td>(Main Buildings, Wall)</td>
<td>1 each building</td>
<td>Building frontage x .5 but not to exceed 25 square feet</td>
<td>4</td>
<td>Building frontage or main entrance</td>
</tr>
<tr>
<td><strong>Bulletin Boards</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Ground, Wall)</td>
<td>1</td>
<td>Additional 10 square feet</td>
<td>6</td>
<td>Permitted as part of an approved ground or wall identification sign</td>
</tr>
<tr>
<td><strong>Directional</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Ground identification signs.

(c) **Special provisions.**

(1) **Additional ground identification signs.** For large complexes with more than one main building or activity area, additional ground identification may be permitted by the Planning Commission.

(2) **Directional signs.** The number of directional signs allowed to adequately serve the development shall be determined by the Planning Commission.

(‘64 Code, § 1187.11) (Ord. 3062, passed 1-16-90; Am. Ord. 3352, passed 6-7-94) Penalty, see § 1187.99

§ 1187.12 SIGNS IN AUTOMOTIVE PARKING DISTRICTS.

(a) Signs in automotive parking districts shall be designed, erected, altered, relocated and maintained in accordance with the regulations as contained in this chapter.

(b) **Schedule of automotive parking sign regulations:**

<table>
<thead>
<tr>
<th>Type of Sign</th>
<th>Maximum Number Single Face Area</th>
<th>Maximum Size of Set Back</th>
<th>Maximum Height</th>
<th>Location Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identification (Ground)</td>
<td>1 per entrance</td>
<td>20 square feet</td>
<td>4 feet</td>
<td>5 feet from ROW; 5 feet from LL</td>
</tr>
<tr>
<td>Directional (Ground)</td>
<td>1 per entrance</td>
<td>2 square feet</td>
<td>3 feet</td>
<td>1 foot from ROW; 5 feet from LL</td>
</tr>
</tbody>
</table>

(‘64 Code, § 1187.12) (Ord. 3062, passed 1-16-90) Penalty, see § 1187.99

§ 1187.13 SIGNS PERMITTED IN ALL DISTRICTS.

Signs permitted in all districts shall be designed, erected, altered, relocated and
maintained in accordance with the regulations as provided in this chapter and as outlined below:

(a) *Schedule of Temporary Signs Permitted by Structural Type by District.*

<table>
<thead>
<tr>
<th>Schedule of Temporary Signs Permitted by Structural Type by District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
</tr>
<tr>
<td>Business</td>
</tr>
<tr>
<td>Industrial</td>
</tr>
<tr>
<td>Community Facilities</td>
</tr>
<tr>
<td>Automotive Parking</td>
</tr>
</tbody>
</table>

(b) *Schedule of Regulations for Temporary Signs.* Temporary signs as permitted by use and structural type shall conform to the requirements of this chapter.

<table>
<thead>
<tr>
<th>Type of Sign by District</th>
<th>Maximum Number</th>
<th>Maximum Size of Single Face Area</th>
<th>Maximum Height</th>
<th>Location Minimum Set Back</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Real Estate Sign in:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. Residential</td>
<td>1 per lot (see special provisions)</td>
<td>5 square feet</td>
<td>4 feet</td>
<td>2 feet from ROW; 20 feet from side lot line</td>
</tr>
<tr>
<td>B. Business</td>
<td>1 per zoning lot or 1 per building unit (see § 1187.13(c)(4))</td>
<td>12 square feet (ground) 9 square feet (window)</td>
<td>5 feet</td>
<td>15 feet from ROW; 40 feet from side lot line</td>
</tr>
<tr>
<td>C. Community, Facilities, &amp;</td>
<td>1 per zoning lot (see §)</td>
<td>20 square feet</td>
<td>5 feet</td>
<td>15 feet from ROW; 40 feet from side</td>
</tr>
</tbody>
</table>
### Type of Sign by District

<table>
<thead>
<tr>
<th>Maximum Number</th>
<th>Maximum Size of Single Face Area</th>
<th>Maximum Height</th>
<th>Location Minimum Set Back</th>
</tr>
</thead>
<tbody>
<tr>
<td>Automotive Parking</td>
<td>1187.13(c) (4)</td>
<td></td>
<td>lot line</td>
</tr>
</tbody>
</table>

#### (2) Project Sign

A. Residential

<table>
<thead>
<tr>
<th>Number</th>
<th>Single Face Area</th>
<th>Height</th>
<th>Location Minimum Set Back</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 per street</td>
<td>20 square feet</td>
<td>5 feet</td>
<td>5 feet from ROW; 20 feet from side lot line</td>
</tr>
</tbody>
</table>

B. Business, Industrial, Community Facilities, & Automotive Parking

<table>
<thead>
<tr>
<th>Number</th>
<th>Single Face Area</th>
<th>Height</th>
<th>Location Minimum Set Back</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 per street</td>
<td>20 square feet</td>
<td>5 feet</td>
<td>15 feet from ROW; 40 feet from side lot line</td>
</tr>
</tbody>
</table>

#### (3) Temporary Directional Sign

A. Residential

<table>
<thead>
<tr>
<th>Number</th>
<th>Single Face Area</th>
<th>Height</th>
<th>Location Minimum Set Back</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 per street; 2 per dwelling unit</td>
<td>5 square feet</td>
<td>4 feet</td>
<td>(see special provisions)</td>
</tr>
</tbody>
</table>

(4) **Sale product signs.** See §§ 1187.07, 1187.14 and the particular zoning district for specific regulations.

(5) **Special event.** Any use or structural type not otherwise prohibited by this chapter.

A. Grand opening signs shall be permitted on a one-time basis for a period not to exceed fifteen (15) consecutive days. The size and location of the sign shall be as approved by the Planning Commission.

(c) **Special provisions.**

1. All temporary signs with the exception of residential real estate signs shall be located a minimum of 100 feet from a residential lot line.
2. No temporary signs shall be illuminated.
3. Temporary directional signs may be located in the city ROW on the day of
the activity to which traffic is directed for the period of one hour before the activity until one hour after the activity and on no more than three days in any two week period.

(4) Separate temporary real estate ground signs in business districts pertaining to leasing or rental information of individual units in a multi-business unit building are prohibited on lots or locations that include similar information on approved ground identification signs pursuant to § 1187.09(d)(12).

(d) Information signs. Information signs shall be of any structural type not otherwise prohibited, meet the following requirements and be approved by the Planning Commission.

(1) Not exceed fifty percent (50%) of the largest signage area otherwise permitted in that district and five (5) feet in height.

(2) Be located on the premises relative to similar signs otherwise permitted in that district.

(‘64 Code, § 1187.13) (Ord. 3062, passed 1-16-90; Am. Ord. 3352, passed 6-7-94; Am. Ord. 3740, passed 7-6-99) Penalty, see § 1187.99

§ 1187.14 APPLICATION FOR PERMITS.

Application for permits to erect, place, paint, relocate or alter a sign shall be made to the Building Commissioner by the owner, lessee, developer of the property or his authorized representative for the sign. The application shall be submitted on forms furnished by the city and may be made either separately or with the application for a permit for a building. The fee shall be established by separate ordinance and paid with the application. If any work is commenced prior to the issuance of a permit and the payment of the appropriate fees, the regular fees applicable to the permit in question shall be tripled.

(a) Permit required. A permit shall be required for all permanent and temporary signs with the exception of those signs listed in division (b) hereof, §§ 1187.19 and 1187.09(d)(12) and expressly permitted in the codified ordinances.

(b) Permit not required. A permit is not required for any temporary sign listed below, provided that the sign is located on the lot relating to the sign. However, all such signs shall be subject to the applicable regulations contained in this chapter.

(1) One (1) residential, commercial and industrial real estate signs per lot not exceeding five (5) square feet in area and located at least two (2) feet behind the right-of-way.

(2) Garage sale or other similar signs of a personal nature in a residential
district not exceeding three (3) square feet and displayed no longer than three (3) days.

(3) Ground political signs may be erected on any property, with the owner's permission, and be located at least twelve (12) inches behind the right-of-way line. The sign(s) shall be securely placed in order to prevent being displaced by weather conditions. The following additional regulations shall apply to all political signs:

A. The sign shall not be posted in the public right-of-way, tree lawns located within the public rights-of-way or any property owned or leased by the city, the state, the United States of America or any other public entity without the consent of such governmental entity.

B. No sign shall be erected on a vacant lot or on a lot with an unoccupied building without the owner's permission.

C. The political signs shall not be illuminated.

D. Political signs placed in the public right-of-way, tree lawns located within the public rights-of-way or any property owned or leased by the city, the state, the United States of America or any other public entity without the consent of such governmental entity shall be removed by the Building Department, Police Department and/or Service Department and stored at the Service Department complex for a minimum of seventy-two (72) hours and shall thereafter be destroyed.

(c) Contents of applications. Each application shall present the information required below through use of photographs and drawings at a scale which clearly shows details and design of the sign.

(1) The design and colored layout of each sign proposed, including the total area of all signs and the area, height, character, materials, colors and type of lettering or other symbols or individual signs. Material samples may be requested.

(2) Photographs or drawings of the building for which the signs are proposed.

(3) The number and types of lamps and lens material to be used in any illuminated signs and data showing that the illumination meets the standards established in § 1187.05(f) including rays to illuminating areas.

(4) A dimensional site plan and building elevation showing the exact location of each sign in relation to the building and property lines. Also included shall be the dimensions of the width of the building or building unit face or faces and the lot or lots not occupied by buildings, all used for calculation purposes.

(5) Details and specifications for construction, erection and attachment as
may be required by the Building Code including the name of the sign contractor or company.

(d) Application review. The Building Commissioner shall forward the application and drawings to the Planning Commission for review of:

1. Conformance with the requirements of this chapter.

2. Appropriateness of size, scale, shape, color and illumination in relation to building size.

3. Location and relationship to signs currently existing.

4. Conflicting applications for the same development area shall be resolved by the Planning Commission. Permanent signs shall take precedence over temporary signs.

(e) Application approval. In the event the application complies with the provisions of this chapter, the Planning Commission shall approve the proposed sign. Following Commission approval and approval by Council when deviations are required, the Building Commissioner shall issue a sign permit.

(f) Temporary signs. In addition to the other sign requirements, temporary signs shall comply with the following regulations.

1. Time limit.

A. Temporary real estate signs advertising leased space shall be displayed no sooner than sixty (60) days prior to a known vacancy and must be removed immediately when all vacancies are filled.

B. Real estate signs requiring permits and project temporary signs shall be issued for a period of three hundred sixty-five (365) days and are renewable on re-application to the Building Department for an additional 365-day period. Additional renewals of approved signs without alteration may be approved by the Building Commissioner.

C. Special event and directional temporary signs shall have time limits and locations specified by the Planning Commission or by the Building Commissioner.

2. Bond or cash deposit. Bond or cash deposit shall be posted at the time of application to guarantee the cost of removal. Bond or cash deposit shall be set by separate ordinance.

3. Sign identification. Each sign location shall be listed on the permit. Date of permit expiration shall appear on each sign.

4. Building Commissioner approval. The following signs may be approved
by the Building Commissioner and do not require a deposit:

A. Municipal or governmental signs.

B. Special event signs.

('64 Code, § 1187.14) (Ord. 3062, passed 1-16-90; Am. Ord. 3352, passed 6-7-94; Am. Ord. 3740, passed 7-6-99; Am. Ord. 4409, passed 4-15-08; Am. Ord. 4672, passed 2-21-12) Penalty, see § 1187.99

§ 1187.15 MAINTENANCE AND REMOVAL OF SIGNS.

All signs and sign structures shall be maintained in a safe and attractive condition. Signs and their supporting structures shall be repaired and painted as often as necessary to prevent rusting, peeling paint and undue fading. Signs which no longer serve the purpose for which they were intended, or which have been abandoned or are not maintained in accordance with this chapter and other applicable regulations of the city shall be removed by the last permit holder or by the city at the expense of such permit holder or property owner.

(a) Every sign or other advertising structure hereafter erected shall have a permanent identification tag located in a conspicuous place thereon, in letters not less than one (1) inch in height, the date of erection, the permit number and the voltage of any electrical apparatus used in connection therewith.

(b) Whenever the removal or maintenance of any permanent sign has been ordered by the Building Commissioner, the person, firm or corporation who erected such sign or on whose premises such sign or display structure has been erected, affixed or attached shall remove or maintain the sign within forty-eight (48) hours after receiving such notice. In the event of noncompliance, the Commissioner may remove or cause to be removed or maintained such sign at the expense of the person, firm or corporation who erected such sign, or on whose premises it was erected, affixed or attached; each such person, firm or corporation shall be individually and separately liable for the expenses incurred in the removal of such sign. Temporary signs in residential districts shall be removed within twenty-four (24) hours a removal order is received from the Commissioner.

(c) Removal of a sign shall include the sign, enclosing frame, all sign supporting members and base, unless the enclosing frame and supporting members are a structural part of the building.

('64 Code, § 1187.15) (Ord. 3062, passed 1-16-90) Penalty, see § 1187.99
§ 1187.16 NONCONFORMING SIGNS.

A sign nonconforming as to the regulations prevailing on the effective date of this chapter, to wit: December 5, 1989, shall be deemed a nonconforming sign unless this chapter or a subsequent amendment thereto makes such sign conforming.

(a) *Maintenance, repair, alteration, change of use or occupant.* Any lawful nonconforming sign may be maintained and the structural or electrical parts repaired or restored to a safe condition only if required by law. Otherwise, a nonconforming sign shall not be altered or moved unless it is made to comply with this chapter. If any sign or part thereof is damaged, destroyed to more than fifty percent (50%) of its reproduction value or taken down, it shall not be rebuilt or relocated unless made to comply with the regulations of the district in which it is located.

(b) *Discontinuance of use.* A nonconforming sign, the use of which is discontinued for a period of thirty (30) days or more, shall thereafter be changed to conform to the regulations of this chapter.

(c) *Conformance date.* Any pole sign, as defined in this chapter, including its structural and supporting members, nonconforming under this Zoning Code and located within any zoning district shall be discontinued within five (5) years after the date of enactment of this chapter, to wit: December 5, 1989. Council hereby finds and determines that such pole signs pose a threat to motorist and pedestrian traffic and the location and appearance of the signs adversely affect residential and business property values. As such these signs are hereby declared a nuisance and thus are to be removed within the five (5) years stated herein.

(64 Code, § 1187.16) (Ord. 3062, passed 1-16-90; Am. Ord. 3352, passed 6-7-94) Penalty, see § 1187.99

§ 1187.17 ABANDONED SIGNS.

(a) Any sign accessory to an abandoned use shall be removed within thirty (30) days of notification by certified mail by the Building Department for removal of that sign. A use shall be determined abandoned if it has ceased operation for at least ninety (90) consecutive days.

(b) Notification shall be deemed sufficient if mailed to the last known address of the owner of the sign and to the address, as shown on the records of the Cuyahoga County Recorder, of the owner of the property where the sign is located.
§ 1187.18 DEVIATIONS FROM SPECIFIC SIGN REQUIREMENTS.

(a) New developments. For a new development, the Planning Commission may recommend to Council for approval, deviations from the specific sign requirements of number, area, location, heights and content when included in the development plan review and approval process. The specific reasons and rationale for the deviations from code requirements shall be documented in the Commission's minutes and report to Council. After approval of the deviation by Council, the approved signage shall become the permanent legal nonconforming signage for that development (See § 1187.15(c)). The approved signage shall become a part of the approved final development plans on file with the Building Department.

(b) Existing developments. For existing developments which are or will undergo substantial changes in the development or in the type of operation/business in the development, the Planning Commission may recommend to Council, deviations from the specific sign requirements by the same procedures and conditions as for new developments.

(c) Other deviations. Any applicant for a sign permit who desires to deviate from any of the regulations contained in this chapter shall make application to the Planning Commission for such deviation. The application shall be on forms as provided by the Building Commissioner. The applicant shall pay a fee in the amount of $50 to defray administrative and publication costs associated with the request for a deviation. This fee shall be in addition to any other permit fee required in § 1314.12 of the codified ordinances of the city. The application for a deviation shall be administered as follows:

1. A public hearing shall be held on any application for a deviation pending before the Planning Commission involving a deviation from the sign regulations for:
   A. Signs located within a residential district.
   B. Signs located within one hundred (100) feet of a residential district.
   C. Signs located less than the minimum setback required from an adjoining property.

   Public hearings shall be held ten (10) days prior notice thereof has been published once in any publication having general circulation within the city.

2. Deviation from the sign regulations may be granted by the Planning
Commission, if the Commission finds that:

A. Strict application or enforcement of the sign regulations imposes an unnecessary hardship upon the applicant because of conditions unique or peculiar to the premises upon which the sign is to be located or is currently located, which conditions are not common to other properties and were not voluntarily created by the property owner, any occupant thereof or any predecessor in interest.

B. Denial of the requested deviation will unnecessarily deprive the owner or occupant of a substantial property right without thereby promoting the public health, safety or welfare.

C. The deviation requested would be in general harmony with the purpose and intent of the sign regulations contained in this chapter.

(3) All deviations granted by the Planning Commission shall be subject to review and approval by a majority vote of all members of Council before becoming effective.

(4) Unless the sign for which a deviation has been approved is constructed or is under substantial construction within six months from the date a sign permit has been issued, the deviation or deviations shall automatically expire and become null and void upon the expiration of the six-month period.

(‘64 Code, § 1187.18) (Ord. 3062, passed 1-16-90; Am. Ord. 3213, passed 6-2-92; Am. Ord. 3352, passed 6-7-94) Penalty, see § 1187.99

§ 1187.19 EXEMPTIONS TO REGULATIONS.

The following signage shall be exempt from these sign regulations:

(a) Cornerstones and permanent building plaques, displaying the date of construction, building name or similar information.

(b) Display of official public notices, the flag and emblem or insignia of an official governmental body.

(c) Holiday decorations displayed for customary periods of time.

(d) Painted wall murals or other similar art work if approved by the Planning Commission and Council.

(e) Signage which is not advertising and is an integral part of the original construction of vending machines, fuel pumps, or similar devices.
(f) Street name signs.

(g) Special signage determined by the Planning Commission to be reasonable considering the intent and regulations of this chapter.

(64 Code, § 1187.19) (Ord. 3062, passed 1-16-90)

§ 1187.20 SEVERABILITY.

If any section, subsection, division, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

(64 Code, § 1187.20) (Ord. 3062, passed 1-16-90)

§ 1187.21 EXPIRATION OF APPROVALS AND PERMITS.

In the event a sign has not been installed prior to permit expiration, the approval of any sign application by the Planning Commission and any sign code deviations which may be approved by City Council along with any permit issued pursuant thereto shall expire six (6) months from the date of the approval by the Planning Commission, the date that Council approved any requested sign code deviations or the date a sign permit is issued, whichever event occurs first. In the event work has commenced pursuant to the issuance of any sign permit within the six (6) month period as specified above but has not been completed within such time limit, the Building Commissioner may issue an extension of time for the completion of the work not to exceed sixty (60) days upon the showing of good cause by the permit holder.

(Ord. 3740, passed 7-6-99)

§ 1187.99 PENALTY.

(a) Any person, firm or corporation which shall violate any provision of this chapter, or which shall fail to obey any lawful order of the Building Commissioner made in accordance with the provisions hereof, or which shall erect, construct, alter or repair, or which has erected, constructed, altered or repaired any sign or part thereof which is not in conformity with the plans and specifications submitted to and approved by the Planning Commission or Building
Commissioner in reference to which a sign permit has been issued, or fails to secure a sign permit for such work, or which violates any provision of this chapter, shall be deemed guilty of a misdemeanor of the fourth degree. A separate offense shall be deemed committed on each day during or on which a continuing violation occurs.

(b) The owner or lessees of any building, structure or premises whereon there is built, placed, erected, constructed, reconstructed or altered, any sign in violation of this chapter, and any contractor, subcontractor, or agent or employee or person retained or employed in connection therewith, and who participates in or in any manner assists in the violation of any of the provisions of this chapter, or of any ordered issued hereunder, shall be deemed guilty of a misdemeanor of the fourth degree. A separate offense shall be deemed committed on each day during or on which a continuing violation occurs.

('64 Code, § 1187.99) (Ord. 3310, passed 9-21-93; Am. Ord. 3488, passed 3-5-96)

CHAPTER 1189: PROHIBITED USES

Section

1189.01 Prohibitions for all use districts
1189.02 Prohibitions for Residential Zoning Districts

Cross-reference:

Concerning zoning districts, see § 1135.01

Conditions for variances and exceptions, see §§ 1197.10 and 1197.11

Zoning amendments procedures, see Ch. 1199

§ 1189.01 PROHIBITIONS FOR ALL USE DISTRICTS.

The following uses are hereby prohibited in all use districts:

(a) Abattoir or slaughterhouse, stockyards, meat packing plant, tannery, curing and storage of raw hides, manufacture and refining of tallow, grease and lard, handling and treatment of dead animals, hides, bones, blood, scrap, hair, glue and size, and gelatine manufacture involving recovery from fish or animal offal, soap manufacture, stock food manufacture from refuse, treatment or handling of fertilizers, except sale of fertilizers at retail, incineration or reduction of garbage, offal, dead animals or refuse, sewage disposal plant, except when
controlled by the municipality.

(b) Blast furnaces, iron works, steel works using the Bessemer or open hearth processes; coke manufacture.

(c) Bronze powder manufacture, carbon, lampblack or graphite manufacture, celluloid or pyroxylin manufacture, or explosive or flammable cellulose or pyroxylin products manufacture, coal gas manufacture, coal tar manufacture or tar distillation, glucose or starch manufacture, disinfectant or insecticide manufacture.

(d) Distillation of bones, coal or wood, or manufacture of any byproduct of such distillation, distillation of alcohol, distillation or manufacture of spirituous liquors, emery cloth or sandpaper manufacture.

(e) Explosive or fireworks manufacture or the storage or loading of explosives in bulk, gas manufacture or storage, sulphurous, sulfuric, picric, nitric, hydrochloric acid manufacture, or their use or storage, except as accessory to a permitted industry, match manufacture, nitrating processes, petroleum refining, paper and pulp manufacturing by sulfide processes emitting noxious gases and odors, poison manufacture.

(f) Gypsum, cement, plaster or plaster of Paris manufacture, lime manufacture, stone crushing plants, brick plants.

(g) Manufacture of oiled cloth or clothing, or the impregnation of any fabric by oxidizing oils, rayon manufacture, rubber manufacture by reclaiming process, shoddy manufacture or wool scouring, tar roofing or tar waterproofing manufacture, paint or varnish manufacture, any chemical manufacture or process giving off noxious fumes, smokes, odors or vapors.

(h) Hog feeding, except in the ordinary practice of a farm operation, handling, storage or feeding of any garbage, offal or waste, sewage or garbage disposal plant, except where controlled by the municipality.

(i) Crematories, cemeteries, except municipal cemeteries and necessary additions thereto.

(j) Motor freight depot, freight depot and truck terminal, including any use of any place, building or part thereof, for the purpose of receiving, reloading, assembly, rerouting or reshipment of cargo, goods, parts, merchandise or freight transported to or from the premises by motor vehicles, including trailers, shall be prohibited, and any use of any place, building or part thereof for parking space, gasoline station, service station, repair shop or other accessory services or uses operated in conjunction with any foregoing prohibited use shall not be permitted.
(k)  Tank farms, storage tanks and facilities for the storage or distribution of gaseous or liquid materials, except those normally found in conjunction with permitted retail business establishments.

(l)  Outside or trailer storage of products, materials, vehicles, supplies, equipment, machinery or wastes, unless expressly permitted and regulated within a zoning district.

(m)  Junk or wrecking yards.

(n)  Cultivation, processing or dispensing marijuana for a medical purpose with the following definitions:

(1)  **MEDICAL MARIJUANA.** Marijuana that is cultivated, processed, dispensed, tested, possessed or used for a medical purpose.

(2)  **CULTIVATE.** To grow, harvest, package and transport medical marijuana pursuant to R.C. Chapter 3796.

(3)  **CULTIVATOR.** An entity that has been issued a certificate of operation by the Ohio Department of Commerce to grow, harvest, package and transport medical marijuana as permitted under R.C. Chapter 3796.

(4)  **DISPENSE.** The delivery of medical marijuana to a patient or the patient's registered caregiver that is packaged in a suitable container appropriately labeled for subsequent administration to or use by a patient who has an active patient registration with the State of Ohio Board of Pharmacy, authorizing them to receive medical marijuana.

(5)  **DISPENSARY.** An entity licensed pursuant to R.C. §§ 3796.04 and 3796.10 and any rules promulgated thereunder to sell medical marijuana to qualifying patients and caregivers.

(6)  **PLANT-ONLY PROCESSOR.** A cultivator that has received a license from the Ohio Department of Commerce for the limited purpose of packaging, selling and delivering finished plant material directly to a licensed dispensary for sale to a patient or caregiver.

(7)  **PROCESSOR.** An entity that has been issued a certificate of operation by the Ohio Department of Commerce to manufacture medical marijuana products.

(8)  **MANUFACTURE.** The process of converting harvested plant marijuana into marijuana extract by physical or chemical means for use as an ingredient in a medical marijuana product.

(9)  **MEDICAL MARIJUANA PRODUCT.** A product that contains cannabinoids that has been extracted from plant material or the resin therefrom by physical or
chemical means and is intended for administration to a registered patient, including but not limited to oils, tinctures, edibles, patches and other forms approved under division (A)(6) of R.C. § 3796.06.

(10) **PLANT MATERIAL.** The leaves, stems, buds and flowers of the marijuana plant, and does not include seedling, seeds, clones, stalks or roots of the plant or the weight of any non-marijuana ingredients combined with marijuana.

(64 Code, § 1189.01) (Ord. 2042, passed 12-20-72; Am. Ord. 2137, passed 1-21-75; Am. Ord. 5073, passed 5-16-17)

§ 1189.02 PROHIBITIONS FOR RESIDENTIAL ZONING DISTRICTS.

The following uses are hereby prohibited in all Residential Zoning Districts:

(a) Heliports and Helistops as defined in Chapter 729 of the code.

(Ord. 3821, passed 7-18-00)

**CHAPTER 1190: OIL AND GAS WELLS**

Section

1190.01 Definitions  
1190.02 Permit required  
1190.03 Permit fee  
1190.04 Applications  
1190.05 Brine and waste disposal plan  
1190.06 Fees and deposits  
1190.07 Referral to the Planning Commission; permit issuance  
1190.08 Application review  
1190.09 Inspection and supervision  
1190.10 Ingress and egress roads  
1190.11 Testing of water supply  
1190.12 Drilling and production regulations  
1190.13 Modification of existing wells  
1190.14 Abandoned wells  
1190.15 Fire safety; posting
§ 1190.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDONED WELL.** Any producing well which has not been operated for six months, except for mandatory shut-ins by gas purchasers, and any drilling operation that has ceased for 30 consecutive days.

**APPLICANT.** The record owner of the real property, and owner if different than the record owner and producer, it being the intent that the record owner, owner and producer shall comply with all laws and regulations and shall be treated as jointly and severally responsible for all acts performed in drilling, production and abandonment of oil and gas wells.

**CITY.** The City of Brecksville.

**CONTRACTOR.** Any third party engaged by an owner or producer to conduct drilling, production or other operations.

**DELETERIOUS MATTER.** Any chemical, salt water, oil field brine, waste oil, waste emulsified oil, basic sediment, mud or injurious substances produced or used in the drilling, development, transportation, processing or refining of oil and gas.

**DIVISION.** The Division of Oil and Gas, Department of Natural Resources for the State of Ohio.

**GAS.** All natural gas and other fluid hydrocarbons, not herein defined as oil, including condensate. Condensate means liquid hydrocarbons that were originally in a gaseous phase in the reservoir.
**OIL.** Crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include hydrocarbons that were originally in a gaseous phase in the reservoir.

**OIL AND GAS WELLS.** All wells as defined herein for the production or extraction of oil and/or gas.

**OWNER.** The person who has the right to drill on a tract or drilling unit and to drill onto and produce from a pool or reservoir and to appropriate the oil and gas that is produced therefrom for themselves or others.

**PERMITTEE.** The person to whom is issued a permit or permits.

**PERSON.** Includes any person, firm, partnership, association, corporation, trust, cooperative or other type of organization.

**POLLUTION.** The contamination or detrimental alteration of the physical, chemical or biological properties of any natural surface or ground waters of the city, or the discharge of any liquid, gas or solid substance into water, on the land, or in the air as well, or as is likely to create a nuisance, or render such water or air harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other beneficial uses, or to livestock, animals or aquatic life.

**PRODUCER.** The owner of a well capable of or producing oil or gas or both, or a person intending to produce oil and/or gas from a well. Production includes transmission of oil and gas within pipelines when used in this chapter.

**WATER.** All streams, lakes, ponds, marshes, watercourses or waterways, wells, springs, drainage systems and all other bodies or accumulations of water, surface or ground, intermittent or continuous, which are contained within, flow through or border upon the city or any portion thereof.

**WELL.** Any bore hole, whether drilled or bored, for production, extraction or injection of any gas or liquid mineral, excluding potable water to be used as such, but including natural or artificial brines and oil filled waters.

('64 Code, § 1190.01) (Ord. 2886, passed 5-19-87)

§ 1190.02 PERMIT REQUIRED.

(a) No person, contractor, owner or producer shall drill or cause to be drilled a well for oil or gas, or deepen an existing well for oil or gas, or carry on such development within the
corporate limits of the city until the relevant provisions of this chapter have been complied with and a permit has been issued by the Building Commissioner as provided by this chapter. No permit shall be issued unless the application is accompanied by a valid gas or oil well permit issued by the Division to such person, contractor, owner or producer.

(b) For each gas and oil well to be drilled, deepened, reopened or plugged, a permit shall be obtained and the applicant shall comply with each and every regulation of this chapter and all other applicable federal, state and local law or regulation prior to the issuance of the permit, regardless of the number of permits previously issued within a drilling unit. If the Building Commissioner finds that an applicant for a permit is in violation of this chapter on any previously issued permit, he shall not issue any new permit until satisfactory evidence has been provided to him that all violations have been remedied and all fines, deposits and costs have been remitted to the city.

(c) No permit shall be issued to drill, deepen, reopen or plug a well for oil and gas unless the proposed well is located upon a tract of land or drilling unit containing not less than 40 acres for wells 4,000 feet or deeper, and not less than 20 acres for wells less than 4,000 feet in depth. No more than one oil and gas wells shall be permitted to be drilled in any one drilling unit. No more than four contiguous lots of record which contain inhabited dwelling units shall be pooled for the purpose of creating a drilling unit and meeting minimum lot requirements.

(d) All drilling, production and transmission operations and facilities for oil and gas shall comply with all of the requirements of this chapter, R.C. Chapter 1509, Ohio Administrative Code Chapter 1501, the rules of the Division, all other applicable administrative regulations and laws of the state, the requirements of the Ohio and U.S. Environmental Protection Agency regulations, the National Pollution Discharge Elimination System regulations and permit provisions as applicable, the Federal Water Pollution Control Act Amendments of 1972 including but not limited to the Oil Pollution Prevention regulations, the Safe Drinking Water Act, and applicable provisions of anti-degradation statutes and regulations of the state and federal governments, or any amendments made thereto. In case of conflict among any local, state or federal laws, the more stringent provisions shall apply.

(e) No permit shall be assignable or transferable. Any change in ownership or operation under the permit shall require the new owner or operator to file an application for a new permit, without additional permit fees, in accordance with the regulations in this chapter. It shall be the duty of the existing permit holder to advise the Building Commissioner of any change in ownership and failure to advise shall be a violation of this chapter.

(64 Code, § 1190.02) (Ord. 2886, passed 5-19-87) Penalty, see § 1190.99
§ 1190.03 PERMIT FEE.

No person, owner, contractor or producer shall drill or cause to be drilled, deepened, reopened or plugged a well for gas or oil in the city without first obtaining a permit issued by the Building Commissioner as provided in this chapter. The fee for each such permit shall be $1,000. A separate application and fee shall be required for each well.

(64 Code, § 1190.03) (Ord. 2886, passed 5-19-87) Penalty, see § 1190.99

§ 1190.04 APPLICATIONS.

Every application to drill an original well, deepen an existing well or to reenter an abandoned well shall be in writing, signed by the applicant, or by a person legally authorized to sign in his behalf, and shall be accompanied by the permit fee. No application shall request a permit to drill more than one well. The application shall include the following information:

(a) A true copy of the state permit and the state permit application as submitted to the Division including all salt water disposal plans and a map prepared by a registered surveyor. The applicant shall provide a plan for the handling, storage, removal and disposal of drilling fluids and materials, salt water, frac-water, sludge and any other gas or oil field waste.

(b) A timetable listing when site preparation is to begin, when drilling is to begin and end, when drilling equipment is to be removed, when access roads are to be installed and completed, when permanent storage tanks are to be erected, when transmission lines are to be installed, and when production is estimated to begin.

(c) A statement providing the name and address of the land owner, well owner if different than the land owner, the producer, and all contractors.

(d) A spill prevention plan as required under Federal Oil Pollution Prevention regulations (40 CFR Part 112) which shall also include a schematic drawing of the loading area and measures to be taken for removal of brine and oil from storage tanks in order to confine spill age of same. The schematic drawing shall show an aerial view and a side view, indicating location of separator, tank, sump and loading area. The plan shall include the name and phone numbers of persons responsible for the prevention of spills at the facility and for containment of spills should they occur for emergency notification.

(e) Two sets of site development plans for review by the Planning Commission, which plan, as same may be approved, shall be followed in the development of the property and
which plan shall include the following features on both a map and narrative:

(1) North arrows;

(2) Name, address and phone number of record owner of property, applicant and driller;

(3) A vicinity map to a convenient scale showing the following:
   A. Property lines, boundary lines of drilling unit, streets, rights-of-way, corporation lines and easements adjacent to the site;
   B. The well site; the tank battery site;
   C. Proposed permanent and construction drive locations;
   D. Piping from the well to tanks and from tanks to point of connection with existing supply line;
   E. Nearest dwelling or occupied building and nearest water well in every quadrant, which are located within a radius of 1,320 feet from the well head site, indicated by an arrow and the distance in each quadrant to the nearest dwelling, building and water well;
   F. Location, type and size of proposed piping, either above or below ground;
   G. Location of water, watercourses, tree lines, marshes, water impoundments and other significant natural or human-made features within 2,000 feet of the site; and
   H. Location of transmission lines and power shut-offs.

Any amendments to this map proposed to be made prior to the issuance of a permit shall be immediately filed with the Building Commissioner. Subsequent to the issuance of a permit, no amendments shall be made unless reviewed by the Planning Commission and approved by Council.

(4) Enlarged details shall be provided of the well site and the tank battery site showing the following:
   A. Well appurtenances: tanks, separators, piping valves, pits and dikes. The location of all power shut-offs along with a detailed description of the operation of same; the location of all oil or gas flow shutoffs along with a detailed description of the operation of same.
   B. Fences to be provided around both the well site and tank battery
site. The fence shall be chainlink with a minimum height of eight feet with three strands of barbed wire on top. Gates shall have provision for padlocking with sufficient keys to be supplied to the city. An additional gate is to be provided at the driveway entrance, outside the right-of-way, to prevent unauthorized vehicles from entering. Details of gates are to be shown on the plan.

C. Existing contours, with a minimum interval of two feet, shall be shown within the drilling unit delineating the area of the proposed well site, pits, storage tanks, and all other temporary or permanent fixtures associated with either drilling or production. Show spoil pile locations.

D. Drainage structures, sized in accordance with criteria available through the City Engineer.

(5) Details as to width and composition of proposed permanent and temporary driveways shall be provided and in accordance with the following:

A. Permanent driveways shall have a minimum width of ten feet. The minimum requirement for driveway material to be graded, crushed aggregate of a size, and placed to a thickness, sufficient to prevent displacement under anticipated loading at the discretion of the Building Commissioner. The permanent driveway shall serve the tank site unless such permanent driveway is also required to serve the well site as may be required by the Planning Commission and Council. Positive drainage shall be maintained around this area at all times. The anticipated width and loading shall include, in each case, the heaviest and widest fire fighting equipment owned by the city.

B. Details of the proposed temporary construction drive to provide access and a staging area for equipment and materials shall be provided. This drive shall not be less than 40 feet in width at the street, tapering to not less than 30 feet at the right-of-way, and extending from the right-of-way a minimum distance of 100 feet onto private property. It shall be constructed of a graded, crushed aggregate of a size, and placed to a thickness, to prevent displacement under anticipated loading at the discretion of the Building Commissioner. If required by the City Engineer, a properly sized culvert shall be installed at the street (minimum requirement is 12 inch diameter, 16 gauge with annular ends). Unless the temporary drive is incorporated into the permanent drive, it shall be removed along with the culvert and the area restored to its original condition when the well site is restored. Positive drainage shall be maintained around this area at all times. The anticipated width and loading shall include, in each case, the heaviest and widest fire fighting equipment owned by the city.

(6) Typical cross-sections through diked areas around tanks; specify liners and methods of securing same. State volume of each diked area (minimum volume to be twice tank capacity). No direct discharge shall be permitted from the containment areas. The contents shall be pumped out and removed from the site along with brine or other spilled materials. All
other requirements of the National Fire Code and the National Fire Protection Association shall be met and such dikes shall be maintained during the entire time of the well construction and operation.

(7) A Restoration Plan for the restoration of land surfaces as required by R.C. § 1509.06(L) shall include restoration details. All disturbed areas are to be fine graded, seeded and mulched on completion of grading operations. Between November 1 and March 1, only mulch need be applied. After March 1, the temporary mulch shall be removed and the areas dressed, seeded and mulched. If, in the opinion of the City Engineer, due to conditions of the site, a potential for erosion and sedimentation exists, a review by the County Soil and Water Conservation District shall be required. Recommendations prompted by their review or by the Engineer shall be incorporated in the site plan. Weather permitting, restoration shall be completed within 60 days after drilling is completed.

(8) A detailed landscape plan which shall graphically depict all above ground pipelines, tanks and other structures, as well as proposed landscaped features, including location and plant type proposed for screening purposes.

(9) An equipment list of those items to be installed at the site by manufacturer with model number or specifications as applicable. Provide a list of all subcontractors to be employed and the work they shall perform. Provide a list of temporary equipment to be utilized during the drilling operation including complete information on the blow-out preventer.

(10) Typical trench sections for pipelines showing depth of line, trench width and backfill, including bedding and encasement details where applicable.

(11) Details of pits to be constructed for the temporary storage of brine and oil field waste during drilling and fracturing operations, including typical cross section, liner specifications and methods of securing same. Pits shall be constructed and lined to be water and liquid tight and shall be maintained to prevent the escape or absorption of any wastes, brines, sludges, oil, oil by-products, or other deleterious materials into the ground. During drilling, the drilling fluids and other materials in the pit shall not be permitted to exceed a level of 18 inches from the top of the pit. There shall be a minimum one-inch clay seal underneath the temporary drilling pit. The location, volume and construction of the temporary pit shall be subject to the approval of the City Engineer.

(12) A description of the drilling procedures to be followed, including the intended depth of drilling, the method of extraction of oil and gas, and the method for abandonment of such well. Also attached shall be a list of all names and addresses of all persons, firms or other entities engaged in the process of site preparation, drilling, production, removal of brine or oil, transmission of gas, or any other activity needed for the drilling and production of gas and oil on the well under consideration for a permit.
(13) Size, type, and interior coating (if any) specifications for tanks used in the storage of oil or brine. Tanks may not exceed ten feet in height and are to be painted a color approved by the Building Commissioner, so as not to contrast with the surrounding environment. Not more than one oil storage tank per well site shall be permitted.

(14) Where the application is one for re-entry of an abandoned well, the application shall contain all of the information required by this section and shall provide the following:

A. A statement of the condition of the well; and

B. Evidence of current tests establishing the integrity of the casing strings and cementing as would be required for drilling of a new well.

(15) Within 30 days after commencement of production, an “as-built” Site Development Plan shall be submitted to the city for record purposes.

('64 Code, § 1190.04) (Ord. 2886, passed 5-19-87)

§ 1190.05 BRINE AND WASTE DISPOSAL PLAN.

The applicant shall submit information providing evidence that the applicant has the ability to remove all brine, drilling materials, sludge and all other deleterious materials from the site and the city and shall demonstrate to the satisfaction of Council that a brine injection well or wells are available with sufficient excess capacity to accept all brine wastes and other deleterious materials to be removed from the city and that such injection well or wells have been inspected and approved by the Division. For wastes and deleterious materials that are not acceptable for injection, the applicant shall demonstrate the availability of solid or hazardous waste facilities willing to accept such wastes. No permit shall be issued until such evidence is presented, to the satisfaction of Council.

('64 Code, § 1190.05) (Ord. 2886, passed 5-19-87) Penalty, see § 1190.99

§ 1190.06 FEES AND DEPOSITS.

Prior to the issuance of a permit, the applicant shall post with the city the following funds and documents:

(a) A $5,000 cash deposit to cover costs incurred by the city in reviewing the application by the Planning Commission, the City Engineer, a City Hydrologist, a City Geologist
or Petroleum Engineer, and such other professional consultants as the Planning Commission, with the approval of Council, deems necessary, in order to determine the effect of drilling and production of oil and gas in the location specified on the health, safety and welfare of the residents of the city. Such deposit shall be made to the Finance Director and the balance, if any, of unused funds shall be returned to the applicant.

(b) A $5,000 bond to guarantee proper maintenance and restoration of the property on which the well shall be located after completion of the drilling and the proper abandonment of the well. The Planning Commission may recommend that Council require a higher bond based on-site conditions that would require higher cost to the city for site restoration. The unused portion of the bond shall be returned after the well is abandoned and the site restored to the satisfaction of the Building Commissioner.

(c) The applicant shall provide with his application, proof that he currently is insured to the extent of $500,000 per person for general liability and personal injury with an aggregate per incident limit of $2,000,000; and $500,000 for property damage to any one person with an aggregate limit of $2,000,000. Such insurance policies shall insure the city and any person suffering any personal injury or property damage as a result of the drilling or operation of the well. The aforementioned policies of insurance shall be in full force and effect prior to the issuance of a permit and shall continue in effect until such well is plugged or abandoned as hereinafter provided. Copies of all insurance policies, including renewals thereof, shall be filed with the Building Commissioner. Additionally, all insurance policies and bonds required hereunder shall provide that the city be provided with at least ten days written notice prior to the cancellation of any insurance or bond.

Further, by submitting an application for a permit for a gas and oil well, the applicant agrees that he shall hold harmless and indemnify the city from any and all loss, claims, demands or causes of action, including reasonable attorney's fees and costs of suit, in the event same is brought against the city as the result of any activity engaged in by the applicant or his contractors, in furtherance of the drilling, production or abandonment of any oil or gas well within the city.

('64 Code, § 1190.06) (Ord. 2886, passed 5-19-87) Penalty, see § 1190.99

§ 1190.07 REFERRAL TO THE PLANNING COMMISSION; PERMIT ISSUANCE.

(a) The Building Commissioner shall refer each application to the Planning Commission which shall conduct and coordinate an investigation of all aspects of the application and supporting papers, drawing on the expertise of city officials and employees, and retaining professional consultants, with the approval of Council, for functions specified in this chapter. The Commission shall conduct an investigation of the application to determine compliance or
noncompliance with the provisions of this chapter along with those other matters specifically
entrusted to the Commission for determination by provisions contained in this chapter.

(b) In addition, the Commission shall have the right to investigate and determine
whether by reason of the location of the proposed well and the character and value of the
permanent improvements already erected, and the use to which the land and the surrounding area
is adapted for civic purposes, or for sanitary reasons, the drilling of an oil or gas well will
constitute a threat to the health, safety or welfare of the city or its residents.

(c) The report and findings of the Commission shall be made to Council together
with any substantiation of such findings in adequate detail. Council may, after it determines
whether there has been compliance with the provisions of this chapter, and in consideration of
the report and findings of the Commission, authorize the issuance of a permit, or reject the
application. Should Council authorize the issuance of a permit, the Building Commissioner shall
issue the permit to the applicant within ten days of the date Council has authorized it.

('64 Code, § 1190.07) (Ord. 2886, passed 5-19-87)

§ 1190.08 APPLICATION REVIEW.

The review of the site and the application by city officials and consultants shall include
but not be limited to the following:

(a) The City Engineer shall review the site and the site development plan and any
erosion control plan to be submitted by the applicant, and all other information submitted to the
Planning Commission as required by this chapter, and shall recommend to the Commission
whether or not the specification proposed complies with the code, and what additional conditions
should be imposed, if any, in the event that the Commission recommends the granting of a
permit.

(b) The Hydrologist, if retained by the city, shall review the application to determine
whether the proposed well site is in a groundwater recharge area, and further review all
information available to the city to determine the effect of such well on the surface and ground
water of the city, and shall recommend to the Commission whether or not the applicants proposal
complies with this chapter, and what additional conditions should be imposed, if any, in the
event that the Commission recommends the granting of a permit.

(c) The Geologist or Petroleum Engineer, if retained by the city, shall review all
information submitted by the applicant, in respect to the geology of the site and surrounding
area, to determine whether the proposed drilling and production methods comply with all laws
and regulations and sound engineering practice, and shall recommend to the Commission
whether or not the applicant's proposal complies with the code, this chapter and what additional conditions should be imposed, if any, in the event the Council authorizes the granting of a permit.

(64 Code, § 1190.08) (Ord. 2886, passed 5-19-87)

§ 1190.09 INSPECTION AND SUPERVISION.

After a permit has been granted, the applicant shall meet with the Geologist or Petroleum Engineer, if retained by the city, to coordinate inspection of the drilling for gas and oil wells and to permit such Geologist or Petroleum Engineer, if retained by the city, to adequately advise the city as to compliance with this chapter. The Geologist or Petroleum Engineer, if retained by the city shall be responsible to inspect, and shall have authority to approve or disapprove any act or omission of the applicant concerning any health or safety matter, in furtherance of drilling, production or abandonment of any oil or gas well at any stage, and shall, if directed by the city, be present during the following stages:

(a) He shall observe and along with the City Engineer approve the actual site for construction and drilling of the well, and the area of the well site.

(b) He shall observe the completion of the surface hole and approve the method and amount of the cementing of the surface casing of the well.

(c) He shall provide inspections of the well site during drilling of the remainder of the hole.

(d) He shall be present prior to fracturing the well to approve water flow back room and spillage control, to approve the safe fracturing of the well, and shall also be present to observe flow back of frac-water during the fracturing process. All flow-back water shall be returned to the frac-tanks.

(e) He shall provide inspections of the flow back pit during the swabbing phase after fracturing to assure spillage and contamination control, and shall approve together with the Engineer (prior to drilling) pit placement and size.

(f) He shall inspect and approve the safety aspects of tank battery and appurtenant structure construction, piping and location of equipment and inspect completed and reclaimed areas of the well construction site.

(g) He shall inspect and approve capping or plugging of the well.

(h) He shall inspect and approve abandonment of the well.
The applicant shall fill and level all areas excavated for temporary drilling pits within seven days after the applicant is ready to commence production, and shall restore the land to its original condition. The applicant shall remove all drilling materials, fluids and deleterious sludge from the pit and haul such materials outside the city for disposal.

The Building Commissioner or his authorized representative, shall have the authority to enter, at any time, on property where drilling is proposed, in process, or where a well is in production, for the purpose of inspecting the site, equipment and all other things needed to assure compliance with this chapter.

('64 Code, § 1190.09)  (Ord. 2886, passed 5-19-87)

§ 1190.10 INGRESS AND EGRESS ROADS.

Prior to the commencement of the drilling operation and prior to the installation of any tanks, the permit holder shall provide ingress and egress roads, to the satisfaction of the Building Commissioner, to all well and tank sites. All tank access roads shall be constructed of suitable slag, gravel, crushed stone or other road surface material, be of adequate width to allow travel by firefighting equipment, and be maintained in good condition free of mud or dust. In the event any mud is carried onto the public street, the permit holder shall immediately remove same from the street to the satisfaction of the Commissioner.

('64 Code, § 1190.10)  (Ord. 2886, passed 5-19-87)

§ 1190.11 TESTING OF WATER SUPPLY.

(a) Fresh water wells located within 2,000 feet of any well shall be tested prior to drilling. Such testing is the responsibility of the permittee and shall be at the permittee's expense. Sample collection shall be in containers and following methods approved by the State Board of Health and tested by a state certified laboratory. Test results shall be filed with the Building Commissioner. Upon the complaint of any affected resident that any fresh water well located within a radius of 2,000 feet has been disturbed or altered, a new test, at the permittee's expense shall be taken for the presence of such deleterious materials as chlorides, calcium, sodium magnesium, potassium, iron, strontium and manganese, total dissolved solids, barium, sulfates, nitrates and nitrites, and such heavy metals as lead, mercury and cadmium. Tests shall also be made for certain volatile organic chemicals found in association with Ohio brines including benzene, toluene, xylene and ethylbenzene. This testing shall follow the same procedures as for the original test required by this section.
(b) If in the opinion of the Hydrologist, if retained by the city, the fresh water well is proven to have been disturbed by the well or tanks, the permittee shall immediately correct the problem. Potable water, in amounts needed by the well user, shall be provided by the permittee and a new fresh water well shall be drilled immediately, to insure an adequate potable water supply to those injured parties. If a new fresh water well is not drilled within thirty days, the permittee shall suspend drilling and production operations, and shall be fined $100 a day, until a new fresh water well is drilled. The fine shall be in addition to any other penalties provided herein.

(64 Code, § 1190.11) (Ord. 2886, passed 5-19-87)

§ 1190.12 DRILLING AND PRODUCTION REGULATIONS.

The following regulations shall apply during drilling and production of oil and gas wells:

(a) All storage tanks for storage of oil, water, brine and other such elements shall be leak proof and shall be equipped with a thief hatch cover in a location satisfactory to the City Geologist or Petroleum Engineer, if retained by the city, in order to enable visual inspection of the tank which shall be kept closed at all times when not in use. Any brine storage tank manhole shall have a device securely attached across the opening of the manhole to eliminate access into the storage tank. The oil storage tank shall be equipped with a vent pipe with a safety check valve installed in the vent pipe on top of the storage tank.

(b) The flow line from the well to the separator device shall have a pressure activated shutoff valve system to cut off the flow just prior to the opening of the safety valve on the separator. In the event that the well system utilizes a pump jack, the pump jack shall also have an automatic shutdown system, approved by the City Geologist or Petroleum Engineer, if retained by the city, to stop fluid spill if rod packing leaks. At least once each year, commencing at initial production of a well, the permittee shall test all safety valves used in the production of oil and gas to determine that they are properly functioning and shall report the same to the Building Commissioner no later than June 30 of each year. If such report is not received within 15 days of June 30, the Commissioner and City Geologist or Petroleum Engineer, if retained by the city, shall inspect the premises, to determine the same, and obtain reimbursement of the cost of such inspection from the applicant or any bond or deposit of the applicant being held by the city.

(c) Except as provided in division (b) hereof, all motor powered equipment intended for permanent use in production of wells or transmission of fluid or gas shall be operated only on electrical power. This regulation shall not apply to motors used in drilling operations or mobile service rigs at the site. Any diesel engines being utilized during the drilling stage shall have adequate mufflers to suppress sound and each drilling rig shall be provided with fire resistant soundproofing material and shall be subject to the approval of the City Geologist or Petroleum

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Engineer, if retained by the city. All storage tanks, separators and distribution pipes shall be based on a minimum one-inch clay seal on the surface of the ground, allowing for a lime stone base, and shall be contained by a retainer wall, with a minimum one-inch clay seal, capable of holding two and one-half times the capacity of all storage tanks. The permittee shall provide a loading area to the storage tanks with provisions for a ramp so that if any spillage occurs while removing any materials from storage tanks that spill shall go into a sump which can be pumped into a removal vehicle. Whenever the removal vehicle is at the loading area, all fluids in such sump shall be pumped into the removal vehicle. Permittee shall not permit the fluids in the sump to overflow at any time.

(d) The maximum sound level of all operations during the drilling stage shall be 65 decibels at a distance of 350 feet not to be exceeded more than 10% of the time during drilling. In the event that the Building Commissioner determines that the decibel limit has been violated, he shall order the permittee to cease drilling until adequate measures are taken to reduce the decibel level equal to or less than 65 decibels at a distance of 350 feet.

(e) During drilling of a well, beyond the surface hole, the permittee shall install a blow-out preventer, to be tested at the top of the big lime, with a remote manual preventer control, to shut down the system. The permittee or his agents shall be on-site during all phases of drilling and the permittee shall insure that adequate and knowledgeable and experienced drillers shall be on-site during all phases of drilling.

(f) The person or persons who shall perform the fracture of each well shall be subject to approval of the City Geologist or Petroleum Engineer, if retained by the city, who shall insure that such person or persons are adequately experienced and shall take adequate precautions to avoid any danger to person or property. In the event that any well site, in the opinion of the City Engineer or Hydrologist, if retained by the city, is sufficiently close, to potentially adversely affect any existing pond, stream, lake or other body of surface water, the permittee shall construct diversionary ditches and devise and construct an impounding system to contain any liquids that might otherwise escape from the well site. Such ditches and impounding systems shall be constructed in a manner approved by the City Engineer.

(g) After conclusion of the drilling stage, and upon the date when notice is required to be given to the city of the commencement of production, the permittee shall remove all drilling equipment, temporary tanks and other materials not intended to be permanently placed at the well site.

(h) The permittee, during production of a well, shall make daily fluid level checks of all oil, gas, brine, waste and other elements removed from any well and shall also check on a daily basis the condition of all equipment. Any joint or connection under pressure and above ground which carries fluids or gases under pressure shall be inspected weekly to ensure against leakage. The permittee shall provide a written report to the Building Commissioner of any leaks
or other problems encountered in the inspections.

(i) All landscaping shall be completed within 60 days and all grading shall be completed within 14 days after drilling is completed, weather permitting which shall be determined by the Building Commissioner. The site where all permanent storage tanks and other apparatus shall be located shall be screened with natural evergreen vegetation and such vegetation, when planted, shall be at least five feet in height, with the ability to grow to at least 15 feet in height.

(j) All storage tanks, apparatus and other equipment located above ground at a well site shall be removed and abandonment completed within 180 days after a well stops producing and the ground shall be restored, to the extent possible, to its original condition prior to the drilling of such well, within such 180-day period, weather permitting which shall be determined by the Building Commissioner.

(k) The City Hydrologist, if retained by the city, shall, at the permittee's expense, on at least a semi-annual basis, test the nearest water well, spring and downstream surface water at locations selected by the City Hydrologist to insure that no groundwater or surface water is being contaminated as a result of any oil and gas well operation. The Hydrologist shall submit a copy of the results of such tests to the permittee and to the Building Commissioner. In the event that such testing determines that any contamination has occurred, the permittee shall cease production until the source of contamination is located and the permittee is able to eliminate the source of contamination to the satisfaction of the City Hydrologist.

(l) In the event a permittee at any time determines to shut-in a producing well, the permittee shall notify the Building Commissioner. The permittee shall advise the Commissioner of the length of time such well shall be shut-in and when the well shall again be made productive. The Commissioner upon receiving notice of the permittee's intention to shut-in the well shall inspect any well after it is shut-in to insure that the permittee has safely shut-in the well. If the well is shut-in for more than one year, abandonment proceedings shall be commenced and completed within one month thereafter unless an extension is requested by the permittee and approved by the Planning Commission.

(m) The permittee shall not permit any hydrocarbons or brines to enter the Sharon or Berea Sandstone formations during drilling or production of any oil and gas well.

(n) The permittee shall be prohibited from accumulating combustible materials in the well site areas and upon order of the Fire Chief, shall remove any combustible materials that in the opinion of such city official may be hazardous. Permanent no smoking signs shall be posted at the entrance gate, on the oil storage tanks and temporary signs shall be posted at the drilling site until production commences. No person shall smoke any cigarette, cigar, pipe or other form of combustible tobacco or have any matches, open flames, or burn any other combustible materials at the well site during drilling or when handling or removing gas at the well site. The
permittee shall insure that when any welding occurs on the premises that suitable welding screens are utilized to protect any person from injury.

(o) All artificial lighting used during drilling or production of any gas or oil well shall be designed, constructed and located in such a manner to minimize emission upon any property not within the drilling unit.

(p) The use of nitroglycerin as an explosive shall be prohibited during any phase of drilling, fracturing, operation or production or abandonment of a gas and oil well. The permittee and any contractor shall be permitted to use an explosive other than nitroglycerin to perforate the casing and cement prior to fracturing of a well. Explosives shall not be used to otherwise increase the porosity and permeability of the subsurface and fracturing shall be through the process of hydro-fracturing unless otherwise approved by the City Geologist or Petroleum Engineer, if retained by the city.

(q) No person shall refine or otherwise process for extraction the products of a gas and oil well except when necessary to make gas acceptable to flow through gas transmission lines and in the event that the latter becomes necessary, the permittee shall notify the Building Commissioner prior to commencement of such processing or production. Any burner unit installed in an oil storage tank shall be properly vented and monitored to ensure no excess heating within the tank while in use.

(r) If, during drilling, the site shall be unattended at any time, and during the completion phase of drilling, when the well site area is unattended, the permittee shall take whatever necessary steps to secure the well to avoid any hazard or leakage of hydrocarbons or wastes or other elements.

(s) All pipe and related fittings shall be equal to or better than the American Petroleum Institute Code 5-L, Grade B, and consist of prime material with standard coating. Any deviation from these standards shall be approved by the City Geologist or Petroleum Engineer prior to construction of the same at the well site. Upon completion of construction of all tanks and other apparatus to remain on the well site and laying of pipelines, the permittee shall return all disturbed public or private roads, driveways, walks or approaches to their original condition before disturbance to the satisfaction of the City Engineer. The permittee shall backfill to existing grade level in such a manner so as to prevent erosion or siltation and shall complete all of the same within 14 days after completion of installation of storage tanks and other apparatus and pipelines. All gathering and transmission pipelines shall be laid at a depth of at least three feet.

(t) A hydrostatic test of all pipelines from the well to the separator and from the separator to transmission lines shall be performed by the permittee prior to placing such line or any section thereof into operation. A hydrostatic test, or such other test as may be approved by the City Geologist or Petroleum Engineer, if retained by the city, shall consist of a pressure not
less than two times the expected maximum operating pressure and shall be recorded over a minimum period of 24 hours. In the event that any drop of pressure is noted within such 24-hour period, the line shall not be made operational until the line is capable of performing as set forth in this division.

(u) All gas produced from wells shall be transported from the drill site by means of an underground pipeline connected directly with the producing well to the separator or treating facilities by a completely closed system without venting high pressure gas or the products of gas to the atmosphere at the production site. All oil produced from the wells on the well site may be transported from storage tanks by means of underground pipelines or by tank trucks whose holding capacity shall not exceed 100 barrels. Oil storage tanks shall be no larger than that sufficient to contain and store 210 barrels of oil (each barrel capable of holding 42 U.S. gallons). No more than one oil storage tank shall be permitted for each well site. Under no circumstances shall any gas be “flared.”

(v) In the event that the City Geologist or Petroleum Engineer, if retained by the city, determines that any drilling or production of a gas and oil well causes any sour gas, or gas or oil odor deemed to be a nuisance by the City Geologist or Petroleum Engineer, the permittee shall take all necessary steps to eliminate escape of any sour gas and where ordered by the City Geologist or Petroleum Engineer, shall provide a filter retrofitted on all storage tanks and shall insure during production of any well that such filters are either cleaned or replaced in order to adequately suppress odor.

(w) All waste substances such as brine or acids, produced or used in connection with drilling operations or production shall be retained in water tight receptors from which they shall be hauled for disposal outside the city within ten days after completion of drilling. No production shall commence until such removal has occurred.

(x) No waste, sludge, water or effluent of any type, used in or resulting from drilling or production shall in any manner be dumped, emptied or drained into any storm drainage course, or storm or sanitary sewer or otherwise disposed of on the land or water of the city. Any liquid or waste, other than the water used within the contained flowback process, extracted from a well during drilling or production shall not be re-injected into the ground within the city. All such wastes and brines shall be stored in tanks and removed from the city by haulers who shall first obtain a permit from the Building Commissioner or provide evidence that they are in possession of a permit from the state for such activity and that they are covered by liability insurance. When requested by the Police Department or the Commissioner, such hauler shall produce a log or receipts for the location where such wastes or brine are injected.

(y) Should there be any leak, spill or malfunction, the permittee shall remove or cause to be removed to the satisfaction of the Building Commissioner and the Ohio Environmental Protection Agency all oil and waste materials from any public or private property affected by such spill, leak or malfunction. The permittee shall also pay for any and all damage to municipal
utility services and any extraordinary expenses incurred by the city relating to the use of safety forces at an emergency caused by drilling or production operations.

(z) Should there be any leak, spill or malfunction, the permittee shall remove or cause to be removed to the satisfaction of the Building Commissioner and the Ohio Environmental Protection Agency all oil and waste materials from any public or private property affected by such spill, leak or malfunction. The permittee shall also pay for any and all damage to municipal utility services and any extraordinary expenses incurred by the city relating to the use of safety forces at an emergency caused by drilling or production operations.

(aa) It is the responsibility of the permittee to notify the city of any spills, leaks, explosions, fires or potential hazards immediately through the dispatcher at 526-1234 or 911 as may be applicable. Failure to notify the city shall result in a fine of $100 per day. A written report shall be filed with the city within 30 days, describing the problem, the reason for same, the action taken to correct or mitigate the problem and stating whether there are any long term effects anticipated.

If, in the judgment of the Building Commissioner or the Fire Chief, a hazard to life or property or a fire or explosion hazard exists, he may order the immediate correction of the problem. If no action is taken in response to such order the site shall be closed down.

(bb) The permittee shall notify the Police Department prior to moving the drilling rig onto or off the well site. Truck routes in and out of the well site shall be approved by the Planning Commission. Truck routes through the city streets shall be limited to roads that can accept the load limits. Consideration shall be given to routes that shall minimize wear on public streets within the city and which shall prevent hazards and damage to other properties within the city.

(cc) The permittee shall be responsible for maintaining the public roads in a debris-free condition at all times and it shall be the responsibility of the permittee to cause such roads to be free of mud, debris and other materials that accumulate as a result of drilling, production, transmission, hauling or abandonment proceedings. The permittee shall also restore the streets, sidewalks and other public places which may be disturbed or damaged as a result of operations to their former conditions.

(dd) The permittee shall not store equipment, facilities or material on a drilling unit and shall clear the area of all litter, machinery, derricks, structures and other equipment and facilities not required for the proper drilling or operation of the well.

(ee) The permittee shall pay to the owner of any building, improvement, goods or chattels located contiguous to the drilling unit upon which the well is located, any extra cost of insurance on such building, improvement, goods or chattels which is imposed by the reason of granting a permit and the operations conducted as a consequence thereof.
(ff) No drilling whatsoever shall be conducted during the period from February 15 through April 30. Drilling is permitted 24 hours per day, but no driller may detonate explosive devices, perform the process called fracturing, dress tools, sharpen bits, operate his forge or perform other work causing noise or disturbance before the hour of 7:00 a.m. or after the hour of 7:00 p.m. in any area where there exists an inhabited dwelling or dwellings within 1,000 feet of the drilling operation, unless the consent of all property owners or lessees within such distance is obtained in writing. In the event of an emergency affecting life or property, the Director of Public Safety may waive these time restrictions upon written request of the driller or operator. All operations shall be conducted in such a manner as to eliminate, as far as possible, dust, noise, vibration and noxious odors. Only fluid rotary type drilling rigs muffled against noise emissions shall be used in any drilling operation.

(gg) The permittee shall provide one off-street parking space for each employee engaged in the drilling process and shall provide at least two permanent off-street parking spaces at the site where production equipment shall be located. All trucks, machinery, drilling rigs, and other equipment temporarily stored at the site for use shall be kept in a temporary fenced-in area around the well site when not in use. All extracted materials during drilling and stored at the site shall be kept within such fenced-in area.

(hh) No person shall install or operate any drilling rig or storage tanks, nor build any related structure, nearer than 500 feet from any inhabited private dwelling house; nearer than 500 feet from any public building which may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, storage, traffic or occupancy by the public, nor nearer than 500 feet to any private water supply. No drilling site may be within 150 feet of any public street or railroad right-of-way. In the case of property owners who locate oil or gas wells upon their own property, such oil or gas well shall not be located nearer than 250 feet from the owner's private dwelling house.

(ii) All gates are to be padlocked with a copy of the key given to the Building Commissioner, the Police Chief and the Fire Chief. All oil or water lines with valves extending beyond the chain link fence surrounding the storage area shall be locked and capped.

(‘64 Code, § 1190.12) (Ord. 2886, passed 5-19-87) Penalty, see § 1190.99

§ 1190.13 MODIFICATION OF EXISTING WELLS.

(a) No person shall extend, deepen or enlarge any existing well without first obtaining a permit from the Building Commissioner. Application for such permit shall be made on forms to be prescribed by the Commissioner, and such application shall be accompanied by a fee of $50. A separate application shall be filed for each well to be extended, deepened or enlarged. The methodology for permit approval shall be the same as for the issuance of an
(b) No person shall use, erect or construct any drilling rig or storage tanks within 500 feet of any private dwelling house or any public building, for the purpose of extending or deepening any existing gas or oil well, except in the case of property owners who located oil or gas wells upon their own property, such oil or gas well shall not be extended or deepened nearer than 250 feet from the owner's private dwelling house. No person shall extend, deepen or enlarge any existing gas or oil well or erect any storage tanks within 150 feet of the nearest point of a dedicated portion of any street, highway or railroad right-of-way.

(c) A permit is not required to swab, bail or remove debris from any existing gas or oil well.

('64 Code, § 1190.13) (Ord. 2886, passed 5-19-87) Penalty, see § 1190.99

§ 1190.14 ABANDONED WELLS.

No person shall plug or abandon a gas or oil well without first obtaining a permit from the Building Commissioner. The fee for such permit shall be $25. No person shall cause a gas or oil well to be abandoned without first notifying the Commissioner and the Fire Chief of the intent to abandon or plug such well. Such person, after notification, shall furnish the Commissioner a plot plan by a licensed surveyor indicating thereon the exact location of the well to be abandoned or plugged. Upon compliance with the notification and the furnishing of a plot plan, an application for a permit to abandon or plug may be obtained from the Commissioner. Additional regulations applying to the abandonment or plugging of oil or gas wells include:

(a) All abandoned gas or oil wells shall be plugged in the manner prescribed by the Division, the laws of the state, and this chapter, and shall be done under the supervision of the City Geologist or Petroleum Engineer, if retained by the city, and a representative of the Division.

(b) Any person being the owner or lessee of land, who discovers an abandoned gas or oil well, shall immediately notify the Commissioner and the Fire Chief.

(c) Any person who discovers an abandoned gas or oil well during the development of any land or the construction of any building shall immediately cease all operations until notification is given to the Commissioner and the Fire Chief and the well is treated in accordance with the provisions of this chapter.

(d) No person shall remove any casing or piping of any abandoned well until such well has been reported to the Commissioner and the Fire Chief and the Division. No construction shall take place near or over an abandoned gas or oil well until such well has been treated in
§ 1190.15 FIRE SAFETY; POSTING.

(a) The permittee shall maintain firefighting apparatus and supplies on the drilling site as required by the Fire Department, during drilling operations and during production. Machinery, equipment and installations on the well site shall conform with requirements of the Fire Department. All electrical boxes shall be locked. A “DANGER” sign as approved by the Fire Department shall be posted at the well site, listing names and telephone numbers for emergency notification.

(b) In order that some responsible person may be reached at any time in the event of an emergency, the name, address and telephone numbers of all persons responsible for the ownership, operation and maintenance of each drilled well, whether capped, temporarily out of production, not yet fractured and located within the city, shall be furnished to the Building Commissioner. The information shall include the street location, state permit number and name of well. The permittee shall inform the Commissioner in writing as to shut-off procedures for any drilled well. The emergency information required by this division shall be prominently posted at the drilled well site.

(‘64 Code, § 1190.15) (Ord. 2886, passed 5-19-87)

§ 1190.16 EFFECTIVE PERIOD OF PERMIT; RENEWAL.

(a) The effective period of a permit issued under this chapter, and all the rights and privileges granted under this chapter, shall not exceed 20 years from the date the permit is issued. At the end of the 20 year period, if the well is still operational and the permittee is not in violation of any provision contained in this chapter or any amendments thereto, the Building Commissioner shall renew the permit upon payment of a $25 fee.

(b) Upon any transfer in ownership or interest of the oil and/or gas well, the new owner shall immediately notify the Commissioner in writing of such change and shall make whatever changes and take whatever actions are necessary to make certain all required information is updated.

(‘64 Code, § 1190.16) (Ord. 2886, passed 5-19-87)
§ 1190.17 TERMINATION OF PERMIT; REVOCATION.

(a) After the issuance of a permit, the same shall terminate and become null and void without any action on the part of the city, unless within 180 days from the date of issuance actual drilling of the well has commenced. The cessation of production of oil or gas from the well after production has commenced, except for mandatory shut-in by gas purchasers, shall operate to terminate and cancel the permit, and the well shall be deemed abandoned. Thereafter, no person shall drill or operate any such well within the city without the issuance of another permit.

(b) A permit may be revoked at any time for any violation of any provision contained in this chapter by the permittee or any successor in interest. Revocation shall be by Council upon the recommendation of the Building Commissioner or upon its own initiative, after notice of violation and a hearing is provided to the permittee.

('64 Code, § 1190.17) (Ord. 2886, passed 5-19-87)

§ 1190.18 REJECTION OF PERMIT APPLICATION.

Council shall have the right to reject any application for a permit where by reason of public health, safety and the general welfare, the drilling or operation of a gas or oil well shall constitute a significant disadvantage to the city or any of its inhabitants. In the event a permit application is rejected, the permit fee shall be returned to the applicant.

('64 Code, § 1190.18) (Ord. 2886, passed 5-19-87)

§ 1190.99 PENALTY.

Anyone violating any provision contained in this chapter shall be guilty of a misdemeanor of the fourth degree. In the event of a continuous violation, each day the violation exists shall be deemed a separate occurrence.

('64 Code, § 1190.99) (Ord. 2886, passed 5-19-87)
TITLE ELEVEN - Administration and Enforcement

Chapter 1191 Administrative Procedures
Chapter 1193 Development Plans
Chapter 1195 Planned Development Areas
Chapter 1196 Design Review Guidelines
Chapter 1197 Board of Zoning Appeals
Chapter 1199 Amending Procedures

CHAPTER 1191: ADMINISTRATIVE PROCEDURES

Section

1191.01 Intent
1191.02 General procedures
1191.03 Building permit and zoning certificate
1191.04 [Reserved]
1191.05 [Reserved]
1191.06 Application for permits
1191.07 - 1191.09 [Reserved]
1191.10 Conditional use permits
1191.11 Determination of similar uses
1191.12 Certificate of occupancy
1191.13 Enforcement; penalty

Cross-reference:

Certificate of occupancy definitions, see § 1113.18
Granting of variance or exception, see §§ 1197.10, 1197.11 and 1197.42
Information required on appeals form, see § 1197.25
Nonconforming uses and lots, see § 1173.02
§ 1191.01 INTENT.

(a) Administrative procedures for administering, interpreting, enforcing and for making appeals and amendments to this Zoning Code are hereby established in order to achieve, among others, the following purposes:

(1) To provide general procedures for making applications for permits and determining compliance with this Zoning Code;

(2) To define the functions of the Planning Commission and Board of Zoning Appeals, and the relationship with other officials in administering this Zoning Code;

(3) To define the relationship of reviewing an application for a building permit and review for zoning compliance;

(4) To provide for the inclusion of necessary facilities, services and other uncommon uses through conditional use permits;

(5) To provide for the inclusion of uses which are uncommon but which have characteristics similar to permitted main uses;

(6) To assure that in the construction of new buildings, alterations or change of use, all required provisions have been complied with by requiring a certificate before occupancy;

(7) To provide for the enforcement of this Zoning Code through measures, where there is noncompliance, to keep records of actions in regard to the enforcement of this Code; and

(8) To provide any supplementary administrative properties in conformity with the objectives of the Master Plan and this Zoning Code.

(b) In administering this Code, the provisions shall be regarded as establishing minimum requirements and shall be liberally construed to further the underlying purposes, objectives and intent set forth in the preamble to each chapter.

(c) The relationship of this code to other laws, rules and regulations and the relationship if two or more specific provisions of this code apply to the same subject are set forth in § 1131.03.

(‘64 Code, § 1191.01) (Ord. 2042, passed 12-20-72)
§ 1191.02 GENERAL PROCEDURES.

(a) Code administration. The administration of this Zoning Code is vested in the following officials, commissions and boards of the city:

Planning Commission.

Building Commissioner.

Board of Zoning Appeals.

(b) Compliance. Compliance with the provisions of this code shall be obtained by:

(1) Applying for and the issuance of building permits and zoning certificates, including the following, if applicable:

A. Application of a conditional use permit;
B. Application for determination of similar use;
C. Application and approval of development plans;
D. Application and approval of a development area plan;
E. Appeals for an interpretation or request for a variance;

(2) Application for a certificate of occupancy issued upon completion of the building or the land improvement.

(c) Functions of the Planning Commission. In order to provide for the functions and responsibilities involved in the development of the Master Plan and keeping it current, and the preparation of the comprehensive Zoning Code, Land Planning and Subdivision Regulations (codified herein as Part Eleven - Planning and Zoning Code), the program for capital improvements and for the renewal plan and keeping them current, the Planning Commission shall have, in addition to the duties and powers given it by Article V, Section 8(C) of the City Charter, the powers and duties as granted to it by this Zoning Code (Ordinance 2042, passed December 20, 1972), to be exercised in the manner herein set forth.

(d) Enforcement. Enforcement of the provisions of this code shall be obtained by:

(1) Inspection and order for removal of violations; and

(2) Failure to comply with an order shall constitute an offense; and may be followed with civil action.
§ 1191.03  BUILDING PERMIT AND ZONING CERTIFICATE.

Excavations for buildings or site improvements shall not be started or buildings or structures, or parts thereof, shall not be erected, altered or moved until a building permit and a zoning certificate has been applied for and issued by the Building Commissioner.

(a)  Approval of development area plans. Whenever a development area plan is required to be submitted by this Zoning Code or is requested by the Planning Commission, the building permit or zoning certificate for any building or use shall not be issued unless the preliminary development plan has been approved by the Commission and Council and the final development area plan has been approved by the Commission.

(b)  Approval of development plans. Whenever a development plan is required for any building or use by this code, the building permit and zoning certificate for such building or use shall not be issued unless the development plan has been approved by the Commission.

(c)  Compliance to zoning regulations. Permits for the construction of a building or land improvements or change in use may be issued by the Building Commissioner only if the work described in an application clearly complies with all provisions of this Zoning Code and other codes of the city.

If the proposed building or use does not comply, the Building Commissioner shall not issue a permit. Any such decision of the Commissioner may be taken before the Board of Zoning Appeals.

(d)  Conditional use permit. Whenever a determination for a conditional use is required, the building permit or zoning certificate for the building or use requiring a conditional use permit shall not be issued until such permit has been applied for and issued by the Planning Commission.

(e)  Determination of similar use. Whenever a determination for a similar use is required, the building permit or zoning certificate for the building or use shall not be issued until the inclusion of such use as a permitted use has been made by the Planning Commission.

('64 Code, § 1191.03) (Ord. 2042, passed 12-20-72)

§ 1191.04 and 1191.05 [RESERVED].
§ 1191.06 APPLICATION FOR PERMITS.

(a) Required drawings. In addition to drawings required by the provisions of the Building Code, an application for a building permit shall be accompanied by:

(1) Plat. A plat showing dimensions of the lot to be developed, lot number, a topographic survey or adequate topographic data, and evidence that the lot has been surveyed and properly located.

(2) Site plan. A site plan drawn to scale showing the location of proposed and existing buildings, driveways and parking areas, and proposed finished grades; also on adjoining lots the location and use of buildings within 100 feet of the property line.

(3) Development plan requirements. Such other drawings and information as may be required by the provisions for a development plan or planned development area plan and for a building permit application.

(4) Soil erosion. Studies, maps and information as required by the storm water management regulations ordinance, Chapter 1331 of the Building Code.

(b) Building permit application. Applications for building permits and accompanying drawings shall be submitted to the Building Commissioner. After processing the same, as to general conformance to the Building Code, the Commissioner shall submit to the Planning Commission those applications which require its approval and to the Board of Zoning Appeals if the application involves any interpretation required by it.

(c) Approval. The Building Commissioner, having received reports of approval by Council, and from the Commission or Board of Zoning Appeals, as may be applicable, and finding the drawings, specifications and all documents comply with this Zoning Code and other relevant codes of the city, may issue a building permit and zoning certificate.

(d) Disapproval. If the Planning Commission, Board of Zoning Appeals or the Building Commissioner do not recommend approval of the application, they may suggest changes in the drawings as may be necessary to accomplish the purposes of this Zoning Code. In such instances, conferences with applicants may be held and the application revised or resubmitted, as may be required.

(64 Code, § 1191.06) (Ord. 2042, passed 12-20-72)
§§ 1191.07 - 1191.09 [RESERVED].

§ 1191.10 CONDITIONAL USE PERMITS.

Conditional use permits may be required for certain types of main or accessory uses as enumerated in the various zoning districts of Title Seven of the Planning and Zoning Code. Such uses may be permitted and desired in certain districts but not without consideration in each case of the affect of the uses upon neighboring land. The application of the planning standards for determining the location and extent of such uses is a planning function and not in the nature of a variance or appeal. Conditional uses may be permitted, provided the following procedures are fulfilled and a conditional use permit is granted.

(a) Applications. Applications for such conditional use permits shall be submitted to the Building Commissioner and shall be referred to the Commission. Whenever the Planning Commission has received an application and all of the required submittals, a preliminary discussion for course of action on the application shall be held at the next regular meeting, provided it is received in sufficient time to be accommodated on the agenda. The Commission, in addition to its review, may refer the application to the City Engineer or any other consultants for review, comments and recommendations.

(b) Public hearing. After reviewing the aforementioned comments and recommendations, the Commission may require that the submittals be revised prior to setting a date for a public hearing. Notice of the date, time and place of the public hearing shall be provided at least ten days prior to the date of the hearing, by being published at least once in a newspaper of general circulation in the city and mailed to the owners, as shown on the current records of the County Recorder, of contiguous properties and any other property owners deemed by the Planning Commission as affected by the proposed development. Failure of delivery or receipt of such notice shall not invalidate the proceedings. All applicable fees shall be paid by the applicant prior to notice of the public hearing. The applicant shall present at the public hearing all plans and information required for approval. Within 75 days after the public hearing, the Commission shall recommend to Council the approval, approval with modifications or conditions, or denial of the conditional use permit. Within 60 days after the Commission's recommendation, Council shall approve as recommended by the Commission, approve with modifications or additional conditions, or deny the conditional use permit. The approval shall be subject to all conditions and modifications imposed by Council.

(c) Standards for evaluating conditional use permits. An application for a conditional use permit shall not be approved unless the following conditions and standards are
complied with as set forth for the following districts:

(1) **Residential district.**

A. The proposed use is properly located in relation to the adopted Master Plan, particularly to the collector and local streets and pedestrian circulation;

B. The location, design and operation of such use will not discourage the appropriate development or impair the value of the surrounding residential district; and

C. For temporary structures, every conditional use permit shall be reviewed every six months and may be renewed only while the construction operations are pursued diligently.

(2) **Business, research, service and industrial districts.**

A. The proposed use is necessary to serve the community needs and that existing similar facilities, located in a less restrictive or more remote district in which the use may be permitted by right, are inadequate;

B. The proposed use is not closer than appropriate in the particular situation to schools, churches and other places of assembly;

C. The location, extent and intensity of use, and of the proposed use, shall be such that its operation will not be objectionable to nearby dwellings by reason of noise, smoke, dust, odors, fumes, vibrations or glare than is normal, or as permitted by the performance standards of the district;

D. The proposed use will form a harmonious part of the business, research, service and industrial district, taking into account, among others, convenience of access and relationship of one use to another;

E. The proposed use will be permitted in a less restrictive district than in which it is permitted by right only because of its limited extent, modern equipment and processes; and

F. The hours of operation and concentration of vehicles in connection with the proposed use will not be more hazardous or dangerous than the normal traffic of the district.

(3) **Additional conditions.** In addition to complying with the safeguards and general standards set forth in divisions (c)(1) and (2) hereof, conditions appropriate to each particular application may also be set forth in the permit.

(4) **Time limit.** The approval of a conditional use permit shall become null and void if the construction of the building or site improvements are not started within a
six-month period after the date of Council approval except for planned development areas, where
the time limit shall run concurrently with the time limits for preliminary and final approvals as
stated in §§ 1195.05(b)(3), 1195.06(d) and 1195.10, respectively.

(d) **Planned development areas.** A conditional use permit shall only be issued for a
planned development area, or portion thereof, in accordance with the provisions of this section
and upon approval of development plans in accordance with Chapter 1195, Planned
Development Areas.

("64 Code, § 1191.10) (Ord. 2183, passed 12-16-75; Am. Ord. 3580, passed 8-5-97)

§ 1191.11 DETERMINATION OF SIMILAR USES.

The determination as to whether a use is similar to uses permitted by right shall be
considered as an expansion of the use regulations of the district and not as a variance applying to
a particular situation. Any use found similar shall thereafter be included in the enumeration of
uses permitted by right.

All applications for permits for a building or use not specifically listed in any of the
permitted building or use classifications in any of the districts shall be submitted to the Planning
Commission and, after approval by it, confirmed by Council in compliance with the following
standards:

(a) Such use is not listed in any other classification of permitted buildings or uses;

(b) Such a use is more appropriate and conforms to the basic characteristics of the
classification to which it is to be added than to any other classification;

(c) Such a use does not create dangers to health and safety, and does not create
offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences to an
extent greater than normally resulting from other uses listed in the classification to which it is to
be added; and

(d) Such a use does not create traffic to a greater extent than the other uses listed in
the classification to which it is to be added.

("64 Code, § 1191.11) (Ord. 2042, passed 12-20-72)

§ 1191.12 CERTIFICATE OF OCCUPANCY.
(a) A certificate of occupancy shall be applied for by the owner or his agent and shall be issued by the Building Commissioner as a condition precedent to the occupancy and/or uses of a building and land as follows:

(1) **Occupancy of a building erected or altered; temporary certificate.** A certificate of occupancy shall be required before occupancy of a new building, before occupancy of an existing building which has been altered, moved, changed in use or increased in off-street parking requirements, or for the development of a land use. Such certificate shall only be issued after the erection or alteration of such building or a component thereof, or a required accessory use has been provided and found by inspection to be in conformity with the provisions of this Zoning Code and the Building Code.

Pending the issuance of a regular certificate, a temporary certificate for partial occupancy of a building may be issued for a period not exceeding six months during which time alterations are being made while a dwelling is being completed in accordance with § 1151.07 of this code and if the construction is pursued diligently, the Building Commissioner may renew such temporary certificate for additional periods of two months.

(2) **Change in use of conforming building or land.** A certificate of occupancy shall be required before occupancy of a conforming building or land where the use has been changed, provided the use is different than the prior use, and shall be issued, when found by inspection, to be in conformity with provisions of this code.

(3) **Change in use of nonconforming building or land.** A certificate of occupancy shall be required whenever a nonconforming building or land is changed, and shall not be issued until the Board of Zoning Appeals has approved the change in accordance with the provisions of Chapter 1197 of this code.

(b) **Record of existing building and land use.** Upon application by the owner or his agent, the Building Commissioner shall inspect a building or tract of land existing at the effective date of this Zoning Code (Ordinance 2042, passed December 20, 1972) and shall issue a certificate of occupancy, therefor, certifying:

(1) The present use of the building or land; and

(2) If such use conforms to all the provisions of this code; or

(3) If it is a lawfully existing nonconforming use.

(c) **Application for certificate.**

(1) An application for a certificate of occupancy may be submitted separately or may accompany an application for a building permit. Accurate information shall be furnished by the owner or his agent as to size and location of the lot, buildings or structures occupying the
lot, the dimensions of all yards and open spaces, the use of land or building, and all such information as may be included on a form to be furnished by the city.

(2) A record of all applications and certificates issued shall be kept on file in the office of the Building Commissioner and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building or land affected.

('64 Code, § 1191.12) (Ord. 2042, passed 12-20-72)

§ 1191.13 ENFORCEMENT; PENALTY.

The duty of administering the provisions of this Zoning Code is hereby conferred upon the Building Commissioner. The Commissioner may promulgate rules and regulations as he determines necessary to supplement the administration of this code, and consistent therewith. After certified by Council, such rules of the Commissioner shall have the same force and effect as other provisions of this code.

(a) Inspection and order for removal of violation. The Commissioner is hereby empowered to enter any premise at reasonable time to inspect a reported violation of this code, examine and to order in writing the remedying of any condition found to exist in violation of any provisions of this code. After such an order is served or posted on the premises, no work, except to correct such violation, shall proceed on any building or tract of land included in the violation.

(b) Enforcement by Mayor. This Zoning Code shall be enforced by the Mayor, who may request issuance of process from the court, which shall have jurisdiction of and shall hear, finally determine, and impose the prescribed penalty for any violation of any provision of this Zoning Code.

(c) Additional relief. In addition to all other provisions for the enforcement of this Zoning Code, compliance with the provisions thereof and any amendments heretofore or hereafter adopted, may be enforced in the name of this municipality in any manner provided by law, including proceedings for equitable relief brought in its name.

(d) Penalty. Any person or persons, or the directing officers or agents of any person or persons, or of any club, company, organization, partnership, firm or corporation, society, association, board or commission, who violates or causes or knowingly permits to be violated, any provision of this Zoning Code, or fails to comply with any lawful requirement of any public authority made pursuant to this Zoning Code, or who knowingly uses or causes or permits the use of any building or structure or premises in violation hereof, or who erects, constructs, reconstructs, raises, moves, enlarges or alters any building or structure, which does not conform to any detailed statement or plan submitted and approved pursuant hereto, and any architect,
builder, contractor, agent, person or corporation employed in connection therewith, and who may have assisted in the commission of any such violation, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than $10 nor more than $500. Each day during which any such violation is permitted to exist shall constitute a separate offense.

(e) **Civil action.** In the event any building or structure is being erected, constructed, altered, repaired or maintained in violation of any provision of this Zoning Code, or there is an imminent threat of violation the city, or the owner of any contiguous or neighboring property who would be especially damaged by such violation, may institute and maintain, in addition to any other remedies provided by law, a suit in the Court of Common Pleas of Cuyahoga County, for injunction to terminate or prevent such violation as a public nuisance.

(f) **Records and reports.** The Building Commissioner shall keep or cause to be kept a record of his Department in regard to any decision, determination or conclusion reached by him in connection with the enforcement of this Zoning Code. Such record shall be open to the public inspection during regular business hours.

('64 Code, § 1191.13) (Ord. 2042, passed 12-20-72)

**CHAPTER 1193: DEVELOPMENT PLANS**

Section

1193.01 Intent
1193.02 Submittal of plans
1193.03 Preliminary development plans
1193.04 Planning Commission action
1193.05 Authority to proceed
1193.06 Final development plans
1193.07 Performance guarantee
1193.08 Issuance of soil removal and building permits
1193.09 Amendments to plans
1193.10 Time limit on approval of development plans

Cross-reference:

*Fees for development plan approvals, see § 1101.02*

*Penalty for subdivision regulations violations, see § 1123.04*

*Penalty for zoning code violations, see § 1191.13(d)*
§ 1193.01 INTENT.

Procedures for presenting, reviewing and approving development plans for various types of developments are hereby established to achieve, among others, the following purposes:

(a) To assure that community facilities, business developments and industrial developments are developed according to the intent of this Zoning Code;

(b) To provide an opportunity to review and coordinate building design and site development with the surrounding area; and

(c) To assure that developments will be planned in accordance with the objectives of the Master Plan.

(64 Code, § 1193.01) (Ord. 2042, passed 12-20-72)

§ 1193.02 SUBMITTAL OF PLANS.

Where required by this Zoning Code, preliminary and final development plans shall be prepared for review by the Planning Commission and approved by Council. The Planning Commission may determine that a project containing only one (1) building is a minor development, in which case only a final development plan is required.

(a) Types of projects requiring review. Development plan review shall be required for the following types of projects:

(1) New construction of all main uses in the Office Building, Local Business, Shopping Center, Office Park, Commercial Service, Motor Service, Industrial and Automotive Parking Districts.

(2) Any existing development in the above districts which proposes to alter, reconstruct or otherwise modify a use or site including any of the following:

A. Modifying the exterior of existing buildings, including accessory buildings, in any way except for maintenance which results in the exact replacement of materials, or

B. Modifying the site in any way including increasing or decreasing the amount of pavement, changing the circulation patterns of parking lots and/or aisles, installing
or modifying accessory structures such as air conditioning units, dumpsters, etc., and changes in land forms such as the height or width of berms.

(b) **Filing.** Nine (9) copies of the complete application and plans shall be filed with the Building Commissioner and accompanied by a receipt certifying payment of required fees as established by the schedule of fees. Copies of the application are for review by the Planning Commission members and agencies or consultants invited to review the plans pursuant to § 1193.04. Prior to the regular Planning Commission meeting at which the Commission is expected to act on the application, the applicant shall revise the application based on comments received from the review pursuant to § 1193.04 and submit nine copies of the revised application to the Building Commissioner.

(c) **Review fees.** At the time the initial application is filed the applicant shall deposit a check payable to the city in the amount established by the schedule of fees, by ordinance, along with the application to be credited to the General Fund for the exclusive use of defraying any expenses incurred by the city in reviewing the applications.

('64 Code, § 1193.02) (Ord. 2281, approved by voters 11-8-77; Am. Ord. 3580, passed 8-5-97)

§ 1193.03 PRELIMINARY DEVELOPMENT PLANS.

The application shall indicate the name and address of the owner or owners and his agent. The preliminary development plans shall be drawn to a scale of not less than one inch equals fifty (50) feet and include the following:

(a) **Plat, plot plan.** Plat, property lines of the parcel or parcels proposed for development including existing utilities, easements, street rights-of-way, and locations of existing main buildings and land uses on adjacent parcels and across existing streets. Permanent parcel numbers of the development and adjacent parcels shall be included.

(b) **Topography.** Topographic maps showing existing and generally proposed grading contours at not greater than two (2) foot intervals including integration into and topography on adjacent properties, all existing buildings, wooded areas and, the indication of trees with a D.B.H. of six (6) inches or greater as required by § 915.05 Tree Savings Plan, and land within the Flood Plain District. The topography may be included on the plot plan.

(c) **Main and accessory buildings.** The number, preliminary location and grouping of dwelling units, nonresidential uses, recreational facilities and public uses including typical floor plans, elevations and architectural designs which depict the general character, scale, roof lines and materials of the proposed buildings.

(d) **Vehicular and pedestrian circulation.** The preliminary vehicular and pedestrian
circulation systems including streets, drives, driveways, parking areas and walkways.

(e) **Site improvements.** Other site improvements on a preliminary basis including drainage, typical landscaping and utilities.

(f) **Easements and deed restrictions.** Preliminary statements on the type, location, extent and legal restrictions of easements and deeds.

(g) **Soil report.** Where extensive grading is proposed, a report by the Cuyahoga Soil and Water Conservation District on the soils, and erosion and sediment control measures may be required at the option of the Commission and included in the preliminary application. The grading plan, site improvements and soil report may be combined with the other required information for the report and plans as may be required in Chapter 1175 for a permit for soil removal.

(h) **Requirements and variances listed.** All land planning and zoning regulations, standards and criteria complied with by specific code number and name listed in one (1) table on the plans. Any noncompliance, variances and exceptions expected or anticipated shall also be listed on the plans.

(i) **Other information.** Such other information, plans or data as the Commission may require.

('64 Code, § 1193.03) (Ord. 2281, approved by voters 11-8-77; Am. Ord. 3580, passed 8-5-97; Am. Ord. 3824, passed 8-1-00)

§ 1193.04 PLANNING COMMISSION ACTION.

(a) After the Planning Commission has received an application containing all of the required maps, drawings, dates and plans, a preliminary discussion for course of action on the application shall be held at the next regular meeting, provided it is received in sufficient time to be accommodated on the agenda.

(b) The Commission, in addition to its review, may refer the development plans to any interested agencies, its planning and architectural consultants, and to the City Engineer and Architect for preliminary review, comments and recommendations, including improvements. Review of the development plans shall consist of:

(1) Compliance with all relevant land planning and zoning regulations, standards and criteria, including that of Chapter 1196.

(2) Coordination and integration of the development with the surrounding
natural features.

(3) Coordination and integration of the development within the surrounding developments considering both site development and architecture. The developer may be required to conform with a local overall plan for the area established by the Commission.

(4) Conformance with the components of the Master Plan. The City's Master Plan shall serve as an overall planning guide for all developments.

(c) After payment of fee and after having received the aforementioned comments and recommendations and having had sufficient time to review the comments and recommendations, the Commission shall normally act on the application at the next regular meeting. The Commission may defer action due to required plan revisions. Commission action normally will be within 70 days after the meeting at which the preliminary discussion was held. After recommending to Council approval of the plans, the chairman and secretary shall affix their signatures to six copies of the plan with a notation of any special conditions as the Commission deems necessary to carry out the purpose of this chapter. In the absence of either the chairman or secretary, the vice-chairman may sign the plans.

(d) If the Commission fails to recommend approval of the development plans, it shall state in its records the reasons for such refusal. A report of the Commission's action and the signed development plans shall be submitted to Council.

(64 Code, § 1193.04) (Ord. 2281, approved by voters 11-8-77; Am. Ord. 3580, passed 8-5-97)

§ 1193.05 AUTHORITY TO PROCEED.

Approval or approval subject to modifications of the development plans by Council authorizes the developer to proceed. Approval of the preliminary plan by Council assures the developer that for a one-year period from the date of such approvals:

(a) The locations and arrangement of buildings, walks, parking and loading facilities, landscaped areas, courts and malls may serve as the basis of the final development plan; and

(b) The general terms and any special conditions under which the approval of the preliminary development plans was granted shall not be changed.

If a final development plan, pursuant to § 1193.06 has not been submitted within one year from the date of approval of the preliminary plan by Council the approval of the preliminary plan shall become null and void. However, prior to one year from such date of approval of the preliminary plan by Council the applicant may request in writing to the Chairman of the Commission that the time limit be extended. Such reasonably extended period may be
§ 1193.06 FINAL DEVELOPMENT PLANS.

Following approval of the preliminary development plans, the developer shall proceed to prepare the final development plans for all or part of the proposed development. Final development plans shall contain the information required in the preliminary development plans pursuant to § 1193.03; incorporate such revisions as prescribed by the Commission, the City Engineer and Council; and in addition shall include the following:

(a) **Architectural drawings.** Detailed architectural drawings for all proposed main and accessory buildings, including floor plans and elevations of the front, rear and two sides of the building, together with additional views or cross sections, if necessary, to completely depict the exterior appearance of the structure. All elevations shall be drawn to the same scale, which shall be not less than one-eighth of an inch to the foot. Each elevation shall show the accurate location of windows, doors, portals and other architectural features, all materials and finishes, and an accurate finish grade line. Samples of colors and building materials, colored renderings, and photographs of the site shall accompany the elevations as necessary to convey the appearance of the structure. Rooftop and any other storage equipment shall be shown and screened from public view. Floor plans, elevations and designs of typical representative buildings may, at the discretion of the planning commission, be accepted.

(b) **Parking and loading areas.** The location, arrangement, number and size of proposed and required parking and loading spaces, any proposed outdoor trash storage, required landscaping, dimensions, storm drainage and construction specifications.

(c) **Outdoor lighting fixtures.** The location, type and illumination intensity of proposed outdoor lighting fixtures.

(d) **Site improvements.** Other site improvements including drainage, design of all landscaped areas including type, number and size at planting and full growth. A Tree Savings Plan shall be required as provided in Chapter 915

(e) **Signs.** The size, color, lighting, intensity, location and nature of proposed signs and total development requirements. Provisions and allowances must be made for total development requirements.

(f) **Utilities.** The detailed plans for sanitary sewerage and storm drainage facilities and all other utility installations and connections which include water, electricity and that which
is used for heating.

(g)  *Easements and deed restrictions.* Document the type, location, extent and legal restrictions of all easements and deeds.

(h)  *Other information.* Such other information, plans or data as the Commission may require. Nine (9) copies of the completed final application and plans shall be filed with the Building Commissioner and accompanied by a receipt certifying payment of required fees as established by the schedule of fees. Copies of the application are for review by the Planning Commission members and agencies or consultants invited to review the plans by the Commission.

Prior to the regular Planning Commission meeting at which the Commission is expected to act on the application, the applicant shall revise the application based on comments received from the review and submit nine copies of the revised application to the Building Commissioner. Review and approval of the final development plans by the Commission shall be undertaken in accordance with § 1193.04 and shall also include review of the development plan's compliance with the design review guidelines set forth in Chapter 1196. Approval of final development plans by Council assures the developer that approval of the final plans shall continue in force for a one-year period following such approval.

('64 Code, § 1193.06) (Ord. 2281, approved by voters 11-8-77; Am. Ord. 3580, passed 8-5-97; Am. Ord. 3741, passed 7-20-99)

§ 1193.07  PERFORMANCE GUARANTEE.

The developer may execute and file with the city, financial guarantees in lieu of actual installation or completion of the required improvements after approval of the final development plans.

(a)  *Types of guarantees.* Such guarantees may be in the form of a performance or surety bond, a certified check or any other type of surety approved by the city. The terms of such guarantees shall be determined by the city. However, they shall not be for a longer time period than two years unless Council, by resolution extends the time. Bonds shall be in a form substantially as shown in Appendix iii of the Subdivision Regulations.

(b)  *Amount of guarantee.* The financial guarantees shall be in an amount equal to the estimated total cost of materials and labor required to install or construct the improvements shown on the final development plan. Such costs shall be determined by the City Engineer. When any portion of an improvement has, upon inspection, been found satisfactorily completed, a reduction in the bonds, or partial withdrawal of funds equal to the estimated costs of such
completed improvements may be authorized.

(c) **Stage development.** If a developer applies for and receives final approval of only a portion of the development plan, the required guarantee shall not exceed the cost equal to the cost of planned improvements as listed in division (b) hereof on the proposed development.

(d) **Failure to complete improvements.** In the event the developer fails to complete the installation of all land improvements as listed in division (b) hereof, and in conformance with the final development plan as approved and according to the terms and conditions of the agreement, the city upon proper notice, may complete the same and appropriate such portion of the money or bonds posted for the performance of the work.

('64 Code, § 1193.07) (Ord. 2281, approved by voters 11-8-77)

§ 1193.08 **ISSUANCE OF SOIL REMOVAL AND BUILDING PERMITS.**

Building permits shall also serve as the permit for the movement of soil in the development area and shall be issued by the Building Commissioner after the following conditions have been met:

(a) The buildings and uses are the same as those on the final development plans which have been approved by Council and the City Engineer.

(b) Proposed construction of buildings and uses comply with the Building Code and with all other city or state regulations.

(c) Satisfactory performance guarantees have been received by the city.

('64 Code, § 1193.08) (Ord. 2281, approved by voters 11-8-77)

§ 1193.09 **AMENDMENTS TO PLANS.**

At any time after the approval of preliminary or final development plans, the developer may request an amendment of his plans. The request for such amendment shall be filed with the Building Commissioner and shall be subject to the same procedures and conditions of approval as the original application.

('64 Code, § 1193.09) (Ord. 2281, approved by voters 11-8-77)
§ 1193.10 TIME LIMIT ON APPROVAL OF DEVELOPMENT PLANS.

The approval for development plans shall expire one year after approval of the development plans by Council, provided that a building permit has not been issued during such period. A one-year extension of such approval, if requested, may be granted by Council provided good cause is demonstrated and the Planning Commission recommends such requested extension.

('64 Code, § 1193.10) (Ord. 2183, passed 12-16-75)

CHAPTER 1195: PLANNED DEVELOPMENT AREAS

Section

1195.01 Intent
1195.02 Submittal of plans
1195.03 Preliminary development plans
1195.04 Planning Commission action
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1195.07 Performance guarantee
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Cross-reference:

Definitions for maps, plans and plats, see § 1113.15
Fees for development plan approvals, see § 1101.02
Fees for hearing; exceptions, see § 1101.01
Plans and plats, see Ch. 1121
Soil removal and drainage, see Ch. 1175
§ 1195.01 INTENT.

Procedures for making applications, reviews, reports, amendments, approvals and the administration of Planned Development Area Projects are hereby established to achieve, among others, the following purposes:

(a) To assure that a proposal of a single operation or a series of operations will be developed according to the intent of the Planning and Zoning Code;

(b) To provide the opportunity for the review, control and coordination of building layout and design in conjunction with the design of the site and the surrounding area;

(c) To assure that developments will be planned in accordance with the objectives of the Master Plan.

('64 Code, § 1195.01) (Ord. 2287, approved by voters 6-6-78)

§ 1195.02 SUBMITTAL OF PLANS.

(a) The applicant desiring approval for development under the provisions of this chapter, is encouraged to seek the advice of professional designers, architects, planners, engineers and lawyers in the preparation of plans and documents.

(b) Development plans involving subdivision of land may be combined and processed with the required plans and plats of Chapter 1121. Wherever the land subdividing procedures of Chapter 1115 or the procedures of any other chapter may be in conflict or inconsistent with the procedures in this chapter, the procedures of this chapter shall govern the application for a development area. Conditional use permits shall be processed with the preliminary development plans.

(c) Preliminary and final development plans shall be prepared for review by the Planning Commission and approved by Council.

(1) Types of projects requiring review. Development plan review shall be required for the following types of projects:

A. New construction of all uses in the Community Facility and
Planned Development Overlay Districts.

B. New construction of conditional uses in any district, including Planned Development Areas.

C. Any existing development meeting the criteria of A. or B. above which proposes to alter, reconstruct or otherwise modify a use or site including any of the following: modifying the exterior of existing buildings in any way except for exact replacement of materials, or modifying the site in any way including increasing or decreasing the amount of pavement, changing the circulation patterns of parking lots and/or aisles, installing or modifying accessory structures such as air conditioning units, dumpsters, etc., and changes in land forms such as the height or width of berms.

(2) Filing. Nine (9) copies of the complete application and plans shall be filed with the Building Commissioner and accompanied by a receipt certifying payment of required fees as established by the schedule of fees. Copies of the application are for review by the Planning Commission members and agencies or consultants invited to review the plans pursuant to § 1195.04. Prior to the regular Planning Commission meeting at which the Commission is expected to act on the application, the applicant should revise the application based on comments received from the review pursuant to § 1195.04 and submit nine (9) copies of the revised application to the Building Commissioner.

(3) Review fees. At the time the initial application is filed, the applicant shall deposit a check payable to the city in the amount as established by the schedule of fees, by ordinance, along with the application, to be credited to the General Fund for the exclusive use of defraying any expenses incurred by the city in reviewing the applications.

('64 Code, § 1195.02) (Ord. 2287, approved by voters 6-6-78; Am. Ord. 3580, passed 8-5-97)

§ 1195.03 PRELIMINARY DEVELOPMENT PLANS.

The application shall indicate the name and address of the owner or owners and his agent. The preliminary development plans shall be drawn to a scale of not less than one inch equals 50 feet and include the following:

(a) Plat, plot plan. Plat, property lines of the parcel or parcels proposed for development including existing utilities, easements, streets rights-of-way and locations of existing main buildings and land uses on adjacent parcels and across existing streets. Permanent parcel numbers of the development and adjacent parcels shall be included.

(b) Topography. Topographic maps showing existing and generally proposed grading contours at not greater than two (2) foot intervals including integration into and
topography on adjacent properties, all existing buildings, wooded areas and, the identification of
trees with a D.B.H. of six (6) inches or greater as required by § 915.05 of the Tree Savings Plan,
and land within the Flood Plain District. The topography may be included on the plot plan.

(c) Main and accessory buildings. The number, preliminary location and grouping of
dwelling units, nonresidential uses, recreational facilities and public uses including typical floor
plans, elevations and architectural designs which depict the general character, scale, roof lines
and materials of the proposed buildings.

(d) Vehicular and pedestrian circulation. The preliminary vehicular and pedestrian
circulation systems including streets, drives, driveways, parking areas and walkways.

(e) Common open space and recreational areas. The system of common open spaces
and recreational areas and uses, with estimates of acreage to be dedicated and that to be retained
in common ownership.

(f) Site improvements. Other site improvements on a preliminary basis including
drainage, typical landscaping, outdoor lighting fixtures and signs.

(g) Easements and deed restrictions. Preliminary statements on the type, location,
extent and legal restrictions including how the problems of maintenance and ownership of
common areas will be resolved by easements and deeds.

(h) Soil report. Where extensive grading is proposed a report by the Cuyahoga Soil
and Water Conservation District on the soils, erosion and sediment control measures as may be
required at the option of the Commission and included in the preliminary application. The
grading plan, site improvements and soil report may be combined with the other required
information for the report and plans as may be required in Chapter 1175 for a permit for soil
removal.

(i) Requirements and variances listed. All land planning and zoning regulations,
standards and criteria complied with by specific code number and name listed in one table on the
plans. Any noncompliance, variances and exceptions expected or anticipated shall also be listed
on the plans. Criteria used by the developer or architect should also be listed.

(j) Such other information, plans or data as the Commission may require.

('64 Code, § 1195.03) (Ord. 2287, approved by voters 6-6-78; Am. Ord. 3580, passed 8-5-97;
Am. Ord. 3824, passed 8-1-00)

§ 1195.04 PLANNING COMMISSION ACTION.
(a) Whenever the Planning Commission has received an application and all of the required maps, drawings, data and plans, a preliminary discussion for course of action on the application shall be held at the next regular meeting, provided it is received in sufficient time to be accommodated on the agenda.

(b) The Commission in addition to its review, may refer the development plans to any interested agencies, its planning and architectural consultants, and to the City Engineer and Architect for preliminary review, comments and recommendations including improvements. Review of the development plans shall consist of:

   (1) Compliance with all relevant land planning and zoning regulations, standards and criteria, including that of Chapter 1196.

   (2) Coordination and integration of the development with the surrounding natural features.

   (3) Coordination and integration of the development within the surrounding developments considering both site development and architecture. The developer may be required to conform within a local overall plan for the area established by the Commission.

   (4) Conformance with the components of the Master Plan. The City's Master Plan shall serve as an overall planning guide for all developments.

(c) After reviewing the aforementioned comments and recommendations and noting any nonconformance, the Commission may require the plans to be revised prior to setting a date for a public hearing. This public hearing shall also satisfy the public hearing requirements for a conditional use permit. Notice of the time and place of the public hearing shall be provided at least ten (10) days prior to the date of the hearing by being published at least once in a newspaper of general circulation in the city and mailed to the owners, as shown on the current records of the County Recorder, of contiguous properties and any other property owners deemed by the Planning Commission as affected by the proposed development. Failure of delivery or receipt of such notice shall not invalidate the proceedings. All applicable fees shall be paid by the applicant prior to notice of the public hearing. The applicant shall present at the public hearing all plans and information required for preliminary approval and approval of the conditional use permit. Within seventy five (75) days after the completion of the public hearing, the Commission, at a regular meeting, shall recommend to Council the approval, approval with modifications or conditions, or denial of the conditional use permit and preliminary development plans.

(d) The Commission's recommendations, findings, all noncompliances, variances, exceptions and special conditions necessary to carry out the purpose of the development shall be contained in a report and submitted to Council.

If the Commission fails to recommend approval of the conditional use permit and
development plans, it shall state in its records the reason or reasons for such disapproval.

(e) Upon approval by Council pursuant to § 1195.05(a) of the Commission's recommendation, the Chairman and Secretary shall affix their signatures to approved copies of the plans. In the absence of the Chairman or Secretary, the Vice-Chairman may sign the plans. The approval shall be subject to all conditions and modifications imposed by Council.

('64 Code, § 1195.04) (Ord. 2287, approved by voters 6-6-78; Am. Ord. 3580, passed 8-5-97)

§ 1195.05 COUNCIL ACTION; AUTHORITY TO PROCEED.

(a) Within sixty (60) days after the Commission's recommendation, Council shall approve as recommended by the Commission, approve with modifications or additional conditions, or deny the conditional use permit and preliminary development area plans in whole or in part.

(b) Approval, or approval subject to modification of the development plans by Council, authorizes the developer to proceed with preparation of final development plans. Approval of the preliminary plan by Council assures the developer that for a one-year period from the date of such approval:

1. The location and arrangement of buildings, walks, parking and loading facilities, landscaped areas, courts and malls may serve as the basis of the final development plan;

2. The general terms and any special conditions under which the approval of the preliminary development area plan was granted shall not be changed; and

3. If a final development plan, pursuant to § 1195.06 has not been submitted within one (1) year from the date of approval of the preliminary plan by Council, the approval of the preliminary plan shall become null and void. However, prior to one (1) year from such date of approval of the preliminary plan by Council, the applicant may request in writing to the Chairman of the Commission that the time limit be extended. Such reasonably extended period may be recommended by the Commission and approved by Council.

('64 Code, § 1195.05) (Ord. 2287, approved by voters 6-6-78; Am. Ord. 3580, passed 8-5-97)

§ 1195.06 FINAL DEVELOPMENT PLANS.

Following approval of the preliminary development plans, the developer shall proceed to
prepare final development plans for all or part of the proposed development. Final development plans shall contain the information in the preliminary development plans pursuant to § 1195.03; incorporate such revisions as described by the Commission, the City Engineer and Council; and be submitted according to the provisions of this section.

(a) **Filing.** Nine (9) copies of the completed final application and plans shall be filed with the Building Commissioner and accompanied by a receipt certifying payment of required fees as established by the schedule of fees. Copies of the application are for review by the Planning Commission members and agencies or consultants invited to review the plans by the Commission.

Prior to the regular Planning Commission meeting at which the Commission is expected to act on the application, the applicant shall revise the application based on comments received from the review and submit nine (9) copies of the revised application to the Building Commissioner.

(b) **Application for final approval contents.** The application shall include, in final form, all drawings, specifications, covenants, easements and other documents required for the preliminary development plans including but not limited to:

1. Subdivision plat map and plans to be approved in accord with the requirements and procedures of the subdivision regulations simultaneous with approval of the application for final approval.

2. Site plan drawings and specifications for all streets, parking areas, rights-of-way, easements, pavements, utilities, street lighting and site improvements, including any proposed outdoor trash storage.

3. Drawings and specifications for all buildings showing floor plans, elevations, designs, locations of proposed buildings and existing buildings to be retained, materials and color. Elevations shall include a front, rear and two side elevations, together with additional views or cross sections, if necessary, to completely depict the exterior appearance of the structure. All elevations shall be drawn to the same scale, which shall be not less than one-eighth of an inch to the foot. Each elevation shall show the accurate location of windows, doors, portals and other architectural features, all materials and finishes, and an accurate finish grade line. Colored renderings and photographs of the site shall accompany the elevations as necessary to convey the appearance of the structure. Rooftop and any other storage equipment shall be shown and screened from public view. Floor plans, elevations and designs of typical representative buildings may, at the discretion of the Planning Commission, be accepted.

4. Drawings and specifications of landscape plans for all public and private lands, including grading, planting, walks, recreation areas, materials, constructions, walls, fences, patios and treatment of parking areas. Integration into the adjoining property topography
and planting areas shall be included. The specifications of the plantings shall include name (Latin and common), number and size at planting and at full growth.

(5) Final form of covenants, legal agreements, documents, deed restrictions, assessments, easements, proposed deeds of dedication, by laws of home associations, deeds of condominium ownership and any other such agreements or documents as may be required for the transfer of land and structures to public and common ownership and the development, maintenance and resale, lease, sublease or repurchase of the same thereafter.

(6) All areas proposed for dedication to the city must be acceptable as to size, shape, location and improvement and shown by the applicant to be of benefit to the general public.

A. Title of all land dedicated to public use shall be unencumbered at the time of conveyance.

B. All areas shall be fully improved by the applicant, as required by the Planning Commission and the Council, including all utilities, public walkways and streets through or abutting the property.

(7) For all areas proposed for common ownership by the residents of an area or neighborhood, all rights of development other than for the use specified in the total plan of development shall be reserved in the city. However, each proposal for such use, including parking areas, private access ways, private parks and recreational facilities, and common service facilities shall be accompanied by appropriate legal documents which provide for the management and maintenance of common facilities. Legal instruments providing for dedications, covenants, home associations and subdivision controls shall:

A. Place title of common property in a form of common ownership by the residents of the area, such as, a duly constituted and legally responsible home association, cooperative, and the like;

B. Appropriately limit the use of common property;

C. Place responsibility for management and maintenance of common property. The Mayor and Council at its discretion, may require the applicant to enter into a contract with the city for maintenance of commonly held properties;

D. Place responsibility for enforcement of covenants; and

E. Permit the subjection of each lot or dwelling unit to assessment for its proportionate share of maintenance costs.

(8) Development of common and public areas. Detailed estimates of the costs of maintenance of all common and proposed public areas and facilities, shall be provided by the
developer. All common property shall be fully improved by the applicant, as required by Council and the Planning Commission, including all utilities, public walkways and streets through or abutting the property, grading, landscaping and other appurtenances.

(9) **Construction schedule.** A final schedule of development indicating when construction of all component parts proposed for a site or area will be completed.

(10) **Construction plans and sureties.** Project and engineering drawings for all public and private improvements, construction schedules and required sureties.

(11) **Additional information.** All additional drawings, estimates and material deemed necessary by the Planning Commission to properly review the various elements of the application for final approval.

(c) **Planning Commission action.**

(1) The Commission shall review the documents and final plans for conformance with relevant Planning and Zoning regulations, standards, and criteria, including the Design Review Guidelines set forth in Chapter 1196, and the general terms and special conditions under approval of the preliminary development plans were granted. The Commission may refer the documents and plans to its consultants for review.

(2) Public hearings required by other chapters of the Planning and Zoning Code, procedures thereof and required actions by the Planning Commission, shall be in accordance with the procedures of § 1195.04(c).

(3) In its review of a development plan for a conditionally permitted Planned Development Area in a residential district, the Commission may approve design parameters submitted by the applicant for one-family detached dwelling units or which may be included in covenants and restrictions or other legal forms pursuant to § 1195.06(b)(5) at the discretion of the Planning Commission. Such design parameters should include several prototype designs for the individual dwelling units. In the event such design parameters are approved by the Planning Commission, subsequent review of each one-family detached dwelling unit may be conducted by the Building Commissioner at the time the building permit application is submitted. The Building Commissioner may approve the application when the application complies with the design parameters approved by the Planning Commission.

(4) A report of the Commission’s action and any special conditions or comments on the development plans shall be submitted to Council. If the Commission fails to recommend approval of the development area plans, it shall state in its records the reason or reasons for such denial.

(5) After approval of the final development plans by Council, the Commission Chairman and Secretary shall affix their signatures to the approved plans. In the absence of
either the Chairman or Secretary, the Vice Chairman may sign the plans. The approval shall be subject to all conditions and modifications imposed by Council.

(d) Council action. Within sixty (60) days after the Commission's recommendation, Council shall approve, approve with modifications or deny the final development area plans in whole or in part. Approval of the initial phase of final development plans by Council assures the developer that for a five-year period from approval of the initial phase, approval of any remaining preliminary plan shall continue. A two-year extension for such preliminary approval, if requested, may be granted by Council, provided good cause is demonstrated and the Planning Commission recommends such requested extension.

(64 Code, § 1195.06) (Ord. 2287, approved by voters 6-6-78; Am. Ord. 3580, passed 8-5-97; Am.Ord. 3741, passed 7-20-99)

§ 1195.07 PERFORMANCE GUARANTEE.

The developer may execute and file with the city, financial guarantees in lieu of actual installation or completion of the required improvements after approval of the final development plans.

(a) Types of guarantees. Such guarantees may be in the form of a performance or surety bond, a certified check or any other type of surety approved by the city. The terms of such guarantees shall be determined by the city; however, they shall not be for a longer time period than two years unless Council, by resolution, extends the time. Bonds shall be in a form substantially as shown in Appendix iii of the Subdivision Regulations.

(b) Amount of guarantee. The financial guarantees shall be in an amount equal to the estimated total cost of materials and labor required to install or construct the improvements shown on the final development plan. Such costs shall be determined by the City Engineer. When any portion of an improvement has, upon inspection, been found satisfactorily completed, a reduction in the bonds, or partial withdrawal of funds equal to the estimated costs of such completed improvements, may be authorized.

(c) Stage development. If a developer applies for and receives final approval of only a portion of the development plan, the required guarantee shall not exceed the cost equal to the cost of planned improvements as listed in division (b) hereof on the proposed development.

(d) Failure to complete improvements. In the event the developer fails to complete the installation of all land improvements as listed in division (b) hereof, and in conformance with the final development plan as approved and according to the terms and conditions of the agreement, the city upon proper notice, may complete the same and appropriate such portion of
the money or bonds posted for the performance of the work.

('64 Code, § 1195.07) (Ord. 2287, approved by voters 6-6-78)

§ 1195.08 ISSUANCE OF SOIL REMOVAL AND BUILDING PERMITS.

Building permits shall also serve as the permit for the movement of soil in the development area and shall be issued by the Building Commissioner after the following conditions have been met:

(a) The buildings and uses are the same as those on the final development plans which have been approved by Council and the City Engineer.

(b) Proposed construction of buildings and uses comply with the Building Code and with all other city or state regulations.

(c) Satisfactory performance guarantees have been received by the city.

('64 Code, § 1195.08) (Ord. 2287, approved by voters 6-6-78)

§ 1195.09 AMENDMENTS TO PLANS.

At any time after the approval of preliminary or final development plans, the developer may request an amendment of his plans. The request for each amendment shall be filed with the Building Commissioner and shall be subject to the same procedures and conditions of approval as the original application.

('64 Code, § 1195.09) (Ord. 2287, approved by voters 6-6-78)

§ 1195.10 TIME LIMIT ON PLANNED DEVELOPMENT AREA PERMIT.

The permit for the planned development area shall expire after one year after approval of the final development plan if a building permit has not been issued during that time. A one-year extension for such permit, if requested, may be granted by Council, provided good cause is demonstrated and the Planning Commission recommends such requested extension.

('64 Code, § 1195.10) (Ord. 2183, passed 12-16-75; Am. Ord. 2287, approved by voters 6-6-78)
§§ 1195.11 - 1195.14 [RESERVED].

§ 1195.15 INSPECTION AND MAINTENANCE OF COMMON PROPERTY.

(a) Inspection and public hearing. The Service Director shall be responsible for inspection of the condition and maintenance of all common property, and in the event that the organization established to own and maintain common property or any successor organization, shall at any time fail to maintain the common property in reasonable order and condition in accordance with the plan, the Director shall serve written notice upon such organization, and upon owners of record, setting forth the manner in which the organization has failed to maintain the common property in reasonable condition, and such notice shall include a demand that such deficiencies of maintenance be cured within 30 days thereof, and shall state the date and place of a public hearing thereon which shall be held by the Mayor within such 30 days. At such public hearing the Mayor may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. The deficiencies set forth in the original notice or in the modifications thereof shall be cured within such 30 days, or any extension thereof.

(b) Council action. Council, then in order to preserve the taxable values of the properties within the neighborhood or development area and to prevent the common property from being a public nuisance, may authorize the Service Director to enter upon such common property and maintain and improve the same for a period of one year. Such entry improvement and maintenance shall not vest in the public any rights to use the common property. Before the expiration of such year, Council shall, upon its own initiative or upon the request of the organization theretofore responsible for the maintenance of the common property, call a public hearing upon notice to such organization, and to owners of record, to be held by the Mayor and Council, at which hearing such organization or the member residents shall show cause why such maintenance by the city shall not, at the election of Council, continue for a succeeding year. If Council determines that such organization is ready and able to maintain the common property at the end of the year, the city shall cease to maintain the common property at the end of such year. If Council determines such organization is not ready and able to maintain the common property in a reasonable condition, the city may, in the discretion of Council, continue to maintain such common property during the next succeeding year, and subject to a similar hearing and determination, in each year thereafter. In any case, the decision of Council shall constitute a final administrative decision subject to judicial review.

(c) Costs as tax lien. The cost of all aforesaid hearings and of all such maintenance
by the city shall be assessed ratably against the properties that have a right of enjoyment of the common property, and shall become a tax lien on such properties. The Law Director, at the time of entering upon such common property for the purpose of improvement maintenance, shall file a notice of such lien in the office of the Cuyahoga County recorder upon the properties affected. 

('64 Code, § 1195.15) (Ord. 2287, approved by voters 6-6-78)

CHAPTER 1196: DESIGN REVIEW GUIDELINES

Section

1196.01 Intent
1196.02 Explanation of terms
1196.03 Applicability
1196.04 Design review guidelines
1196.05 Interpretive illustrations for design standards

§ 1196.01 INTENT.

The appearance of buildings, structures, open spaces and landscape throughout the city is of public concern. It is in the public interest to ensure that new developments and modifications to existing developments reflect and are sensitive to the history, climate, topography, vegetation, architecture and other building traditions of Brecksville which, in many ways reflects the collection of architectural styles known as the Western Reserve. Therefore, the purpose of the regulations in this chapter is to provide criteria to be used by the City Planning Commission when evaluating the appropriateness of proposed development in the city. These provisions are established to achieve, among others, the following purposes:

(a) To strengthen, protect, enhance and improve the existing visual and aesthetic character of the city, and to prevent the creation or perpetuation of nuisances or blight in the city.

(b) To integrate developments into the surrounding environment, as well as to ensure that each new development and redevelopment will be attractive.

(c) To protect and improve property values.

(d) To foster and encourage creative application of design principles.

(e) To ensure that the particular existing design features which contribute to the unique character of Brecksville are retained and re-created in a manner that ensures that the city
retains and enhances its sense of community.

(f) To ensure that new development and redevelopment are compatible and harmonious with the existing overall character of the city, especially when development is proposed in areas where the existing structures do not have architectural features that warrant replication or enhancement.

(g) To bring new buildings into an orderly arrangement with landscape and nature, other buildings and open areas.

(h) To ensure that these objectives are achieved through an impartial review process which assures that each proposal complies with these design guidelines.

(Ord. 3581, passed 8-5-97)

§ 1196.02 EXPLANATION OF TERMS.

For the purpose of and use in this chapter, certain terms and words shall be interpreted with regard to the following explanations:

(a) Appropriateness. A proposal is judged to be appropriate when it respects the existing architectural style of a building and fits comfortably within its setting, neighborhood and overall community. This condition applies to landscaping and accessory structures as well.

(b) Compatibility. A design or a material/color selection is compatible when it does not strongly deviate from its parent building, or the overall character of the neighborhood. To be compatible does not require look alike designs, but rather designs that reflect some aspects of its parent building or buildings in the general vicinity, such as scale of windows, overhangs, building materials, patterns of siding, roof slope. Conversely, incompatibility occurs when an architectural design, landscape design or accessory building proposal is aesthetically harsh or overwhelming relative to its neighbors.

(c) Noncontributing. A factor in a proposal or part thereof that is taken from an existing building characteristic or site feature such as design, scale, fenestration, architectural feature, material or color that is determined by the Planning Commission to be not appropriate for replication in new projects or modifications to existing projects when:

(1) It does not enhance or improve the character of the city and/or the surrounding environs of the project, or

(2) It is unrepresentative of the overall character of the city and/or the prevalent character of the surrounding environs of the project.
(d) **Proportion.** The relationship of parts of a building, landscape, structures, or buildings to each other and to the whole balance.

(e) **Proximity.** Proximity shall be considered in terms of the potential for one property, by virtue of its location, to materially affect other properties. In determining a property to be in proximity to another, the following factors shall be considered:

1. The visibility of both properties from a common point; or
2. The location of both properties within a relatively compact network of streets, walkways or spaces.

(f) **Style.** Style relates to a building's character and configuration in plan and elevation. It also relates to architectural conventions of a particular time period concerning details of windows and doors, eaves, corner boards, pitch of roofs and the materials of the building's skin.

(Ord. 3581, passed 8-5-97)

§ 1196.03 APPLICABILITY.

The design guidelines set forth in subsections (a) through (d) of § 1196.04, shall apply to the exterior appearance and design of all new construction and building renovations in the respective zoning districts according to the following schedule:

<table>
<thead>
<tr>
<th>District/Use</th>
<th>Applicable Subsection of § 1196.04</th>
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<tbody>
<tr>
<td>(a) Business Districts:</td>
<td></td>
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<tr>
<td>- Office Building District</td>
<td>(a), (b), &amp; (c)</td>
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<tr>
<td>- Local Business District</td>
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<td>- Shopping Center District</td>
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<td>- Commercial Service District</td>
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<td>- Motor Service District</td>
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<td>- Office Park District</td>
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<td>(b) Community facilities:</td>
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<td>- Community Facility District</td>
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</tbody>
</table>
- Community facilities in residential districts permitted as a conditioned use. (a), (b), & (c)

(c) Industrial districts (a) & (b)

(d) Planned Development Areas in residential districts permitted as a conditional use. (a) & (d)

(Ord. 3581, passed 8-5-97)

§ 1196.04 DESIGN REVIEW GUIDELINES.

The design review guidelines cover all aspects of the exterior features of a project and includes an examination of the surrounding context to ensure that new development and modifications to existing developments achieve the objectives of this chapter set forth in § 1196.01. The following guidelines are in addition to the specific regulations and requirements set forth for each of the particular zoning districts.

(a) General criteria applicable to all proposals requiring review.

(1) The proposal shall enhance and improve the character of the community and be appropriate and compatible with its surroundings in accordance with the intent, objectives and development criteria of this chapter. In assessing the characteristics of the surrounding area, noncontributing features will not be considered factors in determining compatibility.

(2) The proposal should minimize changes to the natural grade, and the removal and destruction of trees, landscaping and other natural features.

(3) Buildings shall be oriented in relation to proposed grading, natural features and to existing structures on and adjacent to the site to maintain:

   A. Satisfactory proportions and scale;

   B. Reasonable light and air; and

   C. Privacy, as appropriate.

(4) Buildings, structures and landscaping should be designed and located on the site and be of a scale to complement adjacent buildings and enhance the character of the surrounding area by having features that are appropriate and compatible with existing buildings and structures. In making this determination the Planning Commission shall consider:
Brecksville, Ohio Code of Ordinances

A. Building height, width and general proportions;

B. Architectural features, including patterns of windows and doors, roof pitch, cornice lines, balconies, porches, shutters, dormers, eaves and other decorative detail;

C. General site characteristics which encourage well-landscaped and conveniently located parking areas, safe and comfortable pedestrian ways, and convenient pedestrian movement among adjacent and nearby buildings and parking areas; and

D. Color use which is not bright or brilliant:

(5) Each individual building should express its function, and have an individual character and identity created through functional variety in the overall design.

(6) When existing buildings are to be renovated, the distinguishing qualities or character of a property that contribute to the overall character should not be destroyed. Removal or alteration of distinctive architectural features should be avoided, except for features that are determined to be noncontributing features.

(7) Unique and contemporary designs may be appropriate to the extent such design does not clearly detract from any architectural unity of an ensemble or group of architecturally significant buildings.

(8) Landscaping shall be designed to:

A. Maintain an adequate and appropriate proportion of deciduous and non-deciduous trees.

B. Be in such locations, scale and amounts to be integrated with the building design.

C. Clearly designate entrances/ exits.

D. Reasonably screen paved areas from the street through the use of mounding, the land's natural topography, and/or adequate vegetation.

(9) Mechanical equipment, waste receptacles and other similar appurtenant or accessory structures shall be located to minimize the impact on the building and the community:

A. Window air-conditioning units, condenser elements, antennas, other mechanical equipment, and waste receptacles should not be located on the front of the building.

B. Mechanical equipment on the ground and waste receptacles must be screened with a fence or plant material as approved by the Planning Commission, or housed...
in a structure that is in harmony with the surroundings.

C. Mechanical equipment attached to the side or roof of a building, including heating vents, should be kept as low as possible and screened, and be compatible with the background.

(b) Supplemental criteria applicable to uses in all districts except Planned Development Areas in residential districts:

(1) General site design:

A. Parking areas, drives and approaches shall be of appropriate size and scale in relation to the appearance of the proposed development from public rights-of-way, adjacent property and the internal portion of the site itself. Such appropriate scale shall be achieved by the width of approaches and drives, by having adequate but not excessive parking, and by using landscaping within large parking areas.

B. Accessory loading areas should be located in unobtrusive areas and be screened or blocked from public view.

C. Signs should be designed to reflect the scale of the building, site and surrounding characteristics. Buildings shall be designed for the appropriate placement of signage in a manner which compliments the building.

D. Exterior security and ornamental lighting, when used, shall enhance the building design and the adjoining landscape. Lighting standards and fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be designed so as not to shine directly onto adjoining properties and not be excessive.

E. Entryways should be designed to enhance the ability of the general public to find their way into and around buildings and open spaces.

(2) Scale:

A. Variations in the height of structures are encouraged in order to impart some variety to the skyline of the area and to add some distinction to the streetscape.

B. All observable sides of new construction should achieve architectural interest and excellence.

(3) Materials:

A. New construction shall be guided by the existing work to which it is attached or is associated, and should not be in stark contrast to the materials used on adjacent structures.
B. The texture, color, and placement pattern of materials shall be appropriate for the size and scale of the proposed structures and be compatible with the character of the area.

(c) Supplemental criteria applicable to uses in all districts except industrial districts and Planned Development Areas in residential districts:

(1) Site features:

A. Park benches, ornamental planters and brick pavers shall be encouraged when appropriate to create inviting, people-oriented spaces.

B. Other devices may be considered appropriate in the interest of adding attractive features to the district, such as a clock tower, a raised roof on an otherwise flat-roofed structure, a turret or penthouse.

(2) Building style and scale:

A. The building shall be designed with some, but not necessarily all, of the following details to achieve the characteristics of the city:

   1. The use of pitched roofs, particularly with the gable facing the street.
   2. Decorative lintels over windows/doors constructed with sandstone, wood or similar material;
   3. Multi-paneled windows with shutters (when the windows are an appropriate size suitable for such shutters) painted in contrasting colors;
   4. Decorative cornice area;
   5. Columns or pilasters;
   6. Prominent main entrances to buildings with large doors and "framing" devices such as peaked roof forms, porches or recesses;
   7. Decorative cupolas commonly found on many religious structures in the area; and
   8. Decorative quoins.

B. Architectural details and ornamentation shall be meaningful to the overall design and appropriate for the size and scale of proposed structures; and harmonious with other architectural detail and ornamentation.

C. In areas which have a predominate architectural style, including...
historic styles, such character should be a significant consideration in determining compatibility. In such cases compatibility is partially achieved by some repetition of basic elements such as color, materials and common scale.

D. Building facades should have windows in order to insure a comfortable visual dialogue between occupant and pedestrian. Large unwindowed spaces shall be discouraged.

E. The proportion of wall surface to openings should be consistent with adjacent structures.

F. The use of awnings, mainly confined to the street level, in shopping areas is encouraged. Awnings are to be designed and mounted so as not to cover significant architectural detail.

(3) Materials:

A. Materials shall be used which contribute to the city's architectural character. Examples of such contributing materials include:

1. Red/rose brick exterior;
2. Sandstone;
3. Horizontal wood clapboards for siding;
4. Painted trim woodwork.

B. Conversely, the following materials are not consistent with the city's architectural characteristics and would tend to hasten the creation of nuisances and/or blight; therefore, they are considered inappropriate for use:

1. Mirrored/reflective glass unless used as a small component of the building, designed and located within the context of the architectural style;
2. Concrete block;
3. Stucco (e.g., "dryvit") or similar large expanse of material unless it is utilized with belt courses, joints, contrasting materials, exposed structural elements, or similar design features.
4. Unfinished and industrial type materials such as block, split faced block, exterior insulated finishes, and metal siding.
5. Bright or primary colors, and/or awnings which are in stark contrast to other structures in the surrounding area and/or the design of the proposed structure.
C. Authentic materials are preferred, however modern products that simulate wood and slate effectively may be considered.

D. Roof shingles should be of dark colors rather than pale or near white colors. Materials should be asphalt, fiberglass and slate. Clay tile and/or ribbed metal may have merit as a variation, but will be very carefully considered in contrast to adjacent materials.

(d) Supplemental criteria applicable to Planned Development Areas in residential districts. The criteria in subsection (a) above and this subsection shall apply to all Planned Development Areas permitted as a conditional use in residential districts.

(1) General planning and site design:

A. The design, scale and location on the site of residential structures, accessory buildings and landscaping should enhance the overall natural character of the city.

B. Accessory structures and features such as garages, parking areas, fences, walls, and landscaping should:

   1. Ensure that the relationship to the dwelling reinforces the dwelling as the major focal point of the site.

   2. Ensure that the size, location and design are appropriate for the size of the site and adjacent buildings.

C. Sidewalks should be enhanced with appropriate materials, landscaping, lighting, and benches.

(2) Style:

A. Architectural details and ornamentation shall be meaningful to the overall design and appropriate for the size and scale of proposed structures; and harmonious with other architectural detail and ornamentation.

B. In areas which have a predominate architectural style, including historic styles, such character should be a significant consideration in determining compatibility. In such cases compatibility is partially achieved by some repetition of basic elements such as color, materials and common scale.

C. Architectural forms and the open spaces around them should be integrated so as to enhance the quality of the outdoor public areas including such factors as sunlight, weather protection, noise and air quality, landscaping and benches.

D. All elevations of new construction are expected to feature some door or window openings or other architectural feature to avoid blank walls and such openings.
should have a pattern that is compatible with the character of the neighborhood.

E. Buildings should have varying roof lines and facade modulation to help reduce the apparent size of new buildings and give them more visual interest. The use of pitched roofs is favored in order to add height and body to the low level skyline.

(3) Garages:
A. Garages are to be located so as to not dominate the street elevation.
B. A garage should match the residence to which it is attached or related with similar materials, roof pitch, colors, window style, eaves and trim.

(4) Materials:
A. Within a Planned Development Area there shall be a continuity of building materials among all buildings.
B. Conventional building materials including wood, shingle, stone, and face brick, should be employed in new work, to the extent appropriate.
C. New products which simulate wood siding and slate roof tile or shingles may be acceptable, but only with the presentation of full-scale samples in appropriate colors.

(Ord. 3581, passed 8-5-97)

§ 1196.05 INTERPRETIVE ILLUSTRATIONS FOR DESIGN STANDARDS.

The Planning Commission may prepare from time to time or authorize the preparation of illustrations which demonstrate the design review criteria in § 1196.03. Such illustrations may include drawings, photographs of acceptable projects in Brecksville and elsewhere, drawings or photographs of projects which have been approved pursuant to these regulations and photographs of existing building characteristics or site features which have been determined by the Planning Commission to be noncontributing. Any such illustrations may be recommended by a majority vote of the Planning Commission and approved by Council. When approved, such illustrations shall be considered administrative guidelines which assist in the utilization of these design review criteria.

(Ord. 3581, passed 8-5-97)
CHAPTER 1197: BOARD OF ZONING APPEALS

Section

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Fees for hearings; exceptions, see § 1101.01

Posting notices in public places, see Charter Art. IV, Sec. 10

Prohibited uses, see Ch. 1189

Required yards and areas, see Ch. 1171

Variance defined, see § 1113.25

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Zoning enforcement and penalty, see § 1191.13
§ 1197.01 JURISDICTION.

The Board of Zoning Appeals shall have jurisdiction to hear and decide appeals from orders, decisions, determinations and regulations by the Building Commissioner, any other administrative officer, board or commission, with respect to the application or enforcement of ordinances governing zoning, and to grant exceptions to and variances in the application thereof.

(64 Code, § 1197.01) (Ord. 2042, passed 12-20-72)

§ 1197.02 APPEAL PROCEDURE; NOTICE AND HEARING.

No appeal shall be heard by the Board of Zoning Appeals unless brought before it in accordance with the provisions of this Zoning Code (Ordinance 2042, passed December 20, 1972), and every appeal properly brought before it shall be heard de novo after notice of hearing thereon has been given in the manner hereinafter provided.

(64 Code, § 1197.02) (Ord. 2042, passed 12-20-72)

§§ 1197.03 - 1197.11 [RESERVED].

§ 1197.10 BASIS OF GRANTING USE VARIANCES OR EXCEPTIONS.

Use variances or exceptions which the Board of Zoning Appeals has jurisdiction to grant may be granted on appeal by the Board, provided, after hearing thereon, the Board finds that strict application or enforcement of this Zoning Code or the enforcement of the orders of the Building Commissioner, or of orders or regulations of any other administrative official or agency governing zoning as follows. The following factors shall be considered by the Board or Council, where applicable, when determining whether an applicant will suffer an unnecessary hardship; such hardship must be demonstrated by clear and convincing evidence as to ALL of the following:

(a) The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which it is located;

(b) The variance(s) request stems from a condition which is unique to the property at
issue and not ordinarily found in the zoning district;

(c) The hardship condition is not created by actions of the applicant;
(d) The applicant purchased the property without knowledge of the zoning restriction;
(e) The variance(s) sought is the minimum which will afford relief to the applicant;
(f) The granting of the variance(s) will not adversely affect the rights of those property owners to whom notice is required under § 1197.22;
(g) The granting of the variance(s) will not adversely affect the public health, safety, or general welfare; and
(h) The variance(s) will be consistent with the general spirit and intent of this Zoning Code.

(‘64 Code, § 1197.10) (Ord. 2042, passed 12-20-72; Am. Ord. 4251, passed 5-2-06)

§ 1197.11 VARIANCES AND EXCEPTIONS RELATING TO DIMENSIONS AND SETBACK.

The Board of Zoning Appeals shall also have jurisdiction to grant variances and exceptions relating to the dimensions and setback requirements with respect to any existing sublot or sublots or any proposed sublot or sublots in any proposed allotment or subdivision, provided that the plat for such proposed allotment or subdivision has been submitted to the Planning Commission and the Commission, after public hearing thereon, requests and recommends that such variances or exceptions be granted. In any such case, no other prior order or determination shall be required and no public notice or hearing other than notice of hearing by the Commission shall be required before granting such variance or exception. All other requests for variances and exceptions for an existing sublot or sublots shall proceed in accordance with the balance of the provisions of this chapter. Such variance or exception may be granted by the Board of Zoning Appeals provided that it finds upon a hearing thereof that the applicant will experience a practical difficulty. The following factors shall be considered and weighed by the Board or Council, where applicable, when determining whether an applicant will experience practical difficulty:

(a) Whether there exist site conditions, such as narrowness, shallowness, or topography, unique to the property in question that are not applicable generally to other lands or structures in the same zoning district;

(b) Whether the property in question is located near a non-conforming or
non-harmonious use, structure, or site conditions, or whether the property in question abuts a less restrictive zoning district;

(c) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance(s);

(d) Whether the variance(s) is substantial;

(e) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance(s);

(f) Whether the variance(s) would adversely affect the delivery of governmental services (e.g., water, sewer, refuse removal);

(g) Whether the property owner purchased the property with knowledge of the zoning restriction;

(h) Whether the property owner's predicament feasibly can be obviated through some method other than a variance(s); and

(i) Whether the spirit and intent of the Zoning Code would be observed and substantial justice done by granting the variance(s).

(‘64 Code, § 1197.11) (Ord. 2042, passed 12-20-72; Am. Ord. 4251, passed 5-2-06)

§§ 1197.12 - 1197.20 [RESERVED].

§ 1197.21 PUBLIC HEARINGS ON APPEAL.

Except as permitted by § 1197.11, a public hearing shall be held on any appeal pending before the Board of Zoning Appeals before granting any variance or exception, or in any case when the majority of the members of the Board hold that the public interest requires a public hearing, or in any case wherein the person making the appeal files with his appeal a written demand for a public hearing.

(‘64 Code, § 1197.21) (Ord. 2042, passed 12-20-72)
§ 1197.22 NOTIFICATION OF PROPOSED HEARINGS.

Public hearings before the Board of Zoning Appeals shall be held only after five days prior notice thereof has been published once in any publication having general circulation in the city or ten days prior notice thereof has been published once in a newspaper of general circulation as defined by the Ohio Revised Code and, in addition, ten days prior notice by first-class mail has been given to owners or occupants of property adjacent to the premises involved and to owners or occupants of property located immediately across the street therefrom, and in addition thereto, to the owners or occupants of not less than five neighboring properties. Notice shall be deemed complete as of the day it is mailed.

('64 Code, § 1197.22) (Ord. 2711, passed 4-17-84)

§ 1197.23 JOURNAL AND RULES OF PROCEDURE.

The Board of Zoning Appeals shall keep a journal of its proceedings and may adopt rules of procedure, not inconsistent with this Zoning Code, for filing, prosecution, hearing and determination of appeals brought before it.

('64 Code, § 1197.23) (Ord. 2042, passed 12-20-72)

§ 1197.24 CONDITIONS FOR HEARING APPEAL.

No appeal shall be heard by the Board of Zoning Appeals unless:

(a) The appeal is filed in writing setting forth the information required by this Zoning Code within ten days from the making of the order, determination or enforcement from which the appeal is taken;

(b) The appeal is filed by the owner in fee simple of the premises involved, his duly authorized agent, lessee, optionee or contractor; and

(c) Payment to the Finance Director to defray administrative expenses of $50 for each parcel of land for which an appeal is filed for a single variance on such parcel and for each additional variance requested on the same parcel an additional fee of $15 shall be paid.

('64 Code, § 1197.24) (Ord. 2042, passed 12-20-72; Am. Ord. 2473, passed 10-16-79)
§ 1197.25 APPEAL FORM INFORMATION.

Every appeal shall be made on forms provided for that purpose by the Building Department and shall set forth the following:

(a) The name of the owner of the premises involved;

(b) The name of the person making the appeal and his interest in the premises involved;

(c) A description of the premises in sufficient detail to identify its location and approximate size and shape;

(d) A description of the order, regulation or act of enforcement appealed from and the date thereof;

(e) The facts and circumstances upon which it is claimed the appeal should be granted; and

(f) Such other information as shall be provided by rule of the Board of Zoning Appeals.

('64 Code, § 1197.25) (Ord. 2042, passed 12-20-72)

§ 1197.26 PETITIONER TO SUPPLY REQUESTED DATA.

Whenever the Board of Zoning Appeals considers it necessary to enable it to thoroughly consider any appeal, the person filing the appeal shall, at his expense, promptly supply to it all engineering data, surveys, drawings, technical data, plot plan and other similar information requested by the Board. Failure to comply with the request of the Board shall be grounds for denying an appeal.

('64 Code, § 1197.26) (Ord. 2042, passed 12-20-72)

§§ 1197.27 - 1197.30 [RESERVED].
§ 1197.31 BUILDING PERMIT APPLICATION TIME LIMITATION.

Whenever a variance or exception is granted by the Board of Zoning Appeals, except variances and exceptions granted pursuant to § 1197.11, for any building, structure or other improvement for which a building permit is required by the ordinances and regulations of this municipality, an application for such building permit together with all required plats, plans and other data and documents shall be properly filed within six months from the date such variance or exception is granted; otherwise, the variance or exception shall automatically become null and void upon the expiration of such six-month period.

('64 Code, § 1197.31) (Ord. 2042, passed 12-20-72)

§§ 1197.32 - 1197.40 [RESERVED].

§ 1197.41 COMPULSORY TESTIMONY OR EVIDENCE.

The Chairman of the Board of Zoning Appeals is hereby empowered to compel the attendance of any person at any hearing before it and to compel the production of evidence, either written or oral, which is material to any matter pending on appeal before it, and to issue subpoenas and subpoenas duces tecum for such purpose.

('64 Code, § 1197.41) (Ord. 2042, passed 12-20-72)

§ 1197.42 MEETINGS AND VOTING; ACTION SUBJECT TO COUNCIL APPROVAL.

The Board of Zoning Appeals shall set a stated time and place for its regular monthly meetings and may be called into session at any time by the Chairman or the Mayor upon advance notice of not less than 24 hours. A majority of its members shall constitute a quorum for the transaction of business, and the concurring affirmative vote of at least four members thereof shall be necessary to make any final order, determination or decision. Whenever the Board grants any variance or exception, it shall make a report thereof in the form prescribed by the President of Council. All variances and exceptions granted by the Board shall be subject to review and approval by Council before becoming effective.
§ 1197.51 VARIANCE SURVEY FEE.

(a) Whenever the Board of Zoning Appeals under the provisions of this Zoning Code shall, in its discretion, grant a variance, the Board may assume that the City Engineer shall immediately make a survey of the premises and locate, by setting appropriate stakes or other tangible devices to indicate to the property owner and other interested parties, the exact location for the placement of such buildings. During the erection of such buildings, the Engineer shall make any checks which he deems necessary to see that the terms of the variance are being complied with, and after the completion of such buildings the Engineer shall make such checkups as he deems feasible.

(b) There shall be assessed against the property owner, and paid into the municipality as compensation to the Engineer for his services, such amount of money as the Engineer is entitled to on an hourly basis in accordance with the existing ordinance providing for compensation to the Engineer and to his assistants.

('64 Code, § 1197.51) (Ord. 2042, passed 12-20-72)
Cross-reference:

Fee for public hearings, see § 1101.01

Mandatory referral, see Charter Art. V, Sec. 8C

Subdivision regulations amendments, see § 1123.06

§ 1199.01 INTENT.

This Zoning Code and Map should be amended periodically in order to keep it abreast of new zoning techniques, as well as when the following general conditions arise:

(a) Whenever a general hardship prevails throughout any district classification; or

(b) Whenever a change in development concepts occurs in land use or transportation either within or surrounding the city; or

(c) Whenever extensive developments are proposed that would be in the public interest and would comply with the current Master Plan of the city.

Such amendments shall be made in accordance with the following legislative procedures.

('64 Code, § 1199.01) (Ord. 2042, passed 12-20-72)

§ 1199.02 INITIATION OF AMENDMENT; REFERRAL TO COMMISSION.

A proposed change of the Zoning Code or Map may be initiated either by a member of the Planning Commission or Council, or by the owner of any lot affected or his authorized representative. If initiated by a lot owner or member of Council, the proposal or ordinance to amend shall be referred to the Commission before any action is taken by Council.

(a) Filing. Six copies of the complete request and information shall be filed with the Building Commissioner and accompanied by a receipt certifying payment of required fees. The request shall contain as a minimum, the following information whenever applicable:

(1) Name and address of applicant.

(2) Permanent parcel numbers and ownership.

(3) Present zoning and use or proposed rewording of code.
(4) An outline of the area on a vicinity map showing property lines, streets, permanent parcel numbers, existing and proposed zoning lines or; specific wording changes or additions to the code.

(5) Topographical map at two foot contours showing any associated development layout.

(6) Related information on the proposed change or associated development such as development concept, architectural scheme, floor area, parking, and the like.

(7) Substantiated justification for the proposed changes or use including relevance to any conditions outlined in § 1199.01.

(b) Review fees. The applicant shall deposit a check payable to the city in the amount as established by the schedule of fees, by ordinance, along with the application, to be credited to the General Fund for the exclusive use of defraying any expenses incurred by the city in reviewing the application.

(c) Planning Commission action.

(1) The Planning Commission may require transmittal of the application to any interested agencies or consultants for comment, and such agencies and consultants shall return their comments and recommendation to the Commission.

(2) After receipt of the aforementioned comments and recommendations and having had sufficient time to review the comments and recommendations, the Commission shall set a date for a public hearing on the application.

(64 Code, § 1199.02) (Ord. 2138, passed 1-21-75; Am. Ord. 2297, approved by voters 6-6-78)

§ 1199.03 NOTICE OF PUBLIC HEARING BY COMMISSION.

(a) The Planning Commission shall hold a public hearing on the proposed amendment. Notice of the time and place of such hearing and a summary of the proposed amendment shall be given by either of the following methods:

(1) Publication at least once in a newspaper of general circulation in the city at least (ten) 10 days prior to the date of the hearing; or

(2) If the proposed amendment affects a relatively small area, a written notice may be mailed not less than (ten) 10 days prior to the date of such hearing, to the owners of all property within, contiguous to and directly across the street from the area subject to the proposed
amendment.

(b) A copy of the proposed amendment and all reports, maps or descriptions in connection therewith shall be on file in the office of the Clerk of Council during the period of such notice.

('64 Code, § 1199.03) (Ord. 2042, passed 12-20-72; Am. Ord. 3741, passed 7-20-99)

§ 1199.04 QUORUM; TIME LIMIT ON COMMISSION ACTION.

A quorum of the Planning Commission shall consist of four members and the concurring vote of four members shall be necessary to take any action on any proposed amendment. The Planning Commission shall make its written recommendation and report to Council on the proposed amendment within 60 days after a public hearing unless it is mandatory referral by Council or unless a longer period is allowed by Council. If the Commission fails to act within the time allotted, Council may act on the proposed amendment as if the Commission approved the matter. The Commission may approve or disapprove the proposed amendment either in whole or in part.

('64 Code, § 1199.04) (Ord. 2138, passed 1-21-75)

§ 1199.05 PROCEDURE AT PUBLIC HEARING.

At the public hearing by the Planning Commission, any interested person shall be heard who desires to present reasons for or against the adoption of the proposed amendment, subject, however, to the procedural regulations of the Commission or rulings from the presiding officer. The Commission, by motion, may recess from time to time the public hearing, but no further notice by mail or advertisement need be given for the time and place of any subsequent recessed public hearing of that proposed amendment. The Commission need not take final action on such proposed amendment at the time of the public hearing but shall act within the time specified in § 1199.04.

('64 Code, § 1199.05) (Ord. 2042, passed 12-20-72)

§ 1199.06 ACTION BY COUNCIL.

(a) If the proposed amendment is approved by the Planning Commission, Council
may adopt the amendment by a majority vote. If such amendment is disapproved by the Commission, it may be adopted only by the affirmative vote of five members of Council.

(b) Council shall act on the written recommendation or report of the Commission within 60 days after the receipt thereof. If Council action requires legislation, the proposed ordinance shall be put on first reading within 60 days after Council's approval and final action shall be taken within 60 days after first reading.

(64 Code, § 1199.06) (Ord. 2042, passed 12-20-72)

§ 1199.07  RESUBMITTAL OF DENIED AMENDMENT.

An application for an amendment to the Zoning Map which has been denied by Council shall not be made for a period of one year from the date of each denial, except a new application which affects all, or part, of the same property and which is substantially different from the denial application, may be submitted without the foregoing limitation.

(64 Code, § 1199.07) (Ord. 2042, passed 12-20-72)

§ 1199.08  TEXT AND MAP RECORD BY COMMISSION.

The Planning Commission shall maintain a permanent and current record of this Zoning Code showing all amendments to the text and Map.

(64 Code, § 1199.08) (Ord. 2042, passed 12-20-72)

§ 1199.09  EFFECTIVE DATE.

(a) This Zoning Code shall be effective upon passage and publication and upon adoption by Council of a supplementary ordinance including the Zoning Map and the publication of the ordinances creating such zoning districts and Zoning Map.

(b) This Zoning Code and Map shall take effect and be in force at the earliest date permitted by the Charter of the city.

(64 Code, § 1199.09) (Ord. 2042, passed 12-20-72)