

## City of Brecksville, Ohio Code of Ordinances

Supplement 2018 S-27 contains:  
Local legislation current through 5-15-18  
State legislation current through 7-18-17

Published by:  
**American Legal Publishing Corporation**  
One West Fourth Street, Third Floor  
Cincinnati, Ohio 45202  
Tel: (800) 445-5588  
Fax: (513) 763-3562  
Internet: <http://www.amlegal.com>

## CHAPTER 712: TELECOMMUNICATIONS RIGHT-OF-WAY PERMITS

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### Section

712.01	Permit required
712.02	Form of permit
712.03	Amendment of permit after grant
712.99	Penalty

### ***Cross-reference:***

*For more detailed provisions regarding telecommunications right-of-way permits, see Ch. 712, Appendix i.*

### **§ 712.01 PERMIT REQUIRED.**

All persons, firms, partnerships, corporations, limited liability companies, trusts, joint stock companies, unincorporated associations, governmental entities, banking institutions, joint

stock companies, and any other organization, wishing to construct, operate, maintain, reconstruct, and/or rebuild a telecommunications network used to provide telecommunications services to residents, businesses or other premises within the city or through the city to service other municipalities shall be required to obtain a telecommunications right-of-way permit from the Building Commissioner in the form and under the requirements provided for in § 712.02.

(Ord. 3599, passed 8-6-97)

### **§ 712.02 FORM OF PERMIT.**

The form of the telecommunications right-of-way permit required under this chapter shall be in the form as set forth in Exhibit "A" attached to Ordinance No. 3599 and expressly made a part hereof by reference.

(Ord. 3599, passed 8-6-97; Am. Ord. 3858, passed 12-19-00)

### **§ 712.03 AMENDMENT OF PERMIT AFTER GRANT.**

Any telecommunications right-of-way permit granted under this chapter may be amended only in accordance with the provisions contained in the permit as provided for in § 712.02 and only upon approval of such amendment by City Council.

(Ord. 3599, passed 8-6-97)

### **§ 712.99 PENALTY.**

Any person, firm, partnership, corporation, limited liability company, trust, joint stock company, unincorporated association, governmental entity, banking institution, joint stock company, or any other person or organization who violates any provision of this chapter or any provision of a telecommunications right-of-way permit granted under this chapter shall be deemed guilty of a misdemeanor of the first degree.

(Ord. 3599, passed 8-6-97)

## **CHAPTER 905: WATER REGULATIONS**

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Section

905.01	Parkview Drive water main tap fee
905.02	Water use emergencies
905.99	Penalty

***Cross-reference:***

*Water mains and connection charges, see Ch. 1325*

### **§ 905.01 PARKVIEW DRIVE WATER MAIN TAP FEE.**

(a) No person, corporation, partnership or other association whatsoever, hereinafter sometimes referred to as the “applicant,” shall connect any property, directly or indirectly, with the Parkview Drive water main unless such applicant has first secured from the Director of Public Service a permit therefor.

(b) The Director shall not issue such permit unless the applicant therefor was assessed for the Parkview Drive water main improvement pursuant to Ordinance 1895, passed July 7, 1970, or unless the applicant has deposited in cash or by certified check, payable to the city, a connection or tap-in charge in the amount of \$1,255 for a standard 100-foot by 200-foot lot. If the lot in question is in excess of that standard 100-foot by 200-foot specification, the City Engineer shall determine the additional cost for tap-in.

(c) If the applicant, in the alternative, desires to pay for the connection or tap-in by having such amount certified to the Cuyahoga County Auditor, such applicant shall pay, in cash, that portion of the assessment which has been certified pursuant to the Ordinance of assessment for such improvement to date and the remaining unpaid portion shall be certified to the Cuyahoga County Auditor for payment to run concurrently with the other assessments applicable to this improvement.

(’64 Code, § 905.01) (Ord. 2095, passed 1-15-74) Penalty, see § 905.99

### **§ 905.02 WATER USE EMERGENCIES.**

(a) Whenever it appears to the Mayor or upon notice from the City of Cleveland, that a shortage of water supply exists or is imminent which threatens the public health and safety and that the shortage makes it necessary to curtail water use within all or any part of the City of Brecksville, the Mayor, by the use of a Mayoral Proclamation, shall proclaim a water use emergency throughout all or any part of the city.

(b) During a water use emergency, the Mayor may order a water use curtailment by prohibiting unnecessary use or consumption of water during all or specified hours of the day and/or may order that specified premises curtail unnecessary use or consumption of water on specified days as the Mayor shall determine to be necessary.

(c) A water use emergency proclamation shall specify:

- (1) The geographic area affected by the water use emergency;
- (2) The length of time the emergency shall be in effect, which time shall not exceed seven days without a new proclamation being issued; and
- (3) The degree of water use curtailment.

(d) A water use emergency proclamation shall become effective at the time of issuance by the Mayor. Notice thereof shall be given to a newspaper of general circulation in the city and shall be reported to local radio and television stations for broadcast.

(e) As used in this section, unnecessary use or consumption of water means the use or consumption of water for purposes other than personal health, safety, sanitation and bodily consumption. "Unnecessary use or consumption" of water includes but is not limited to sprinkling or watering lawns, other land irrigation, the washing of automobiles, houses or other structures and the use of water for recreation purposes such as the filling or maintenance of swimming pools or ponds.

(f) No person or entity shall, during a water use emergency, use water in violation of the terms and conditions of the Mayor's water use emergency proclamation.

('64 Code, § 905.02) (Ord. 2963, passed 6-21-88) Penalty, see § 905.99

### **§ 905.99 PENALTY.**

Whoever violates any provision of § 905.02 is guilty of a minor misdemeanor and shall be fined not more than \$100. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

('64 Code, § 905.99) (Ord. 2963, passed 6-21-88)

## **CHAPTER 907: HIGHLAND-BOSTON WATER AND SEWER DISTRICT**

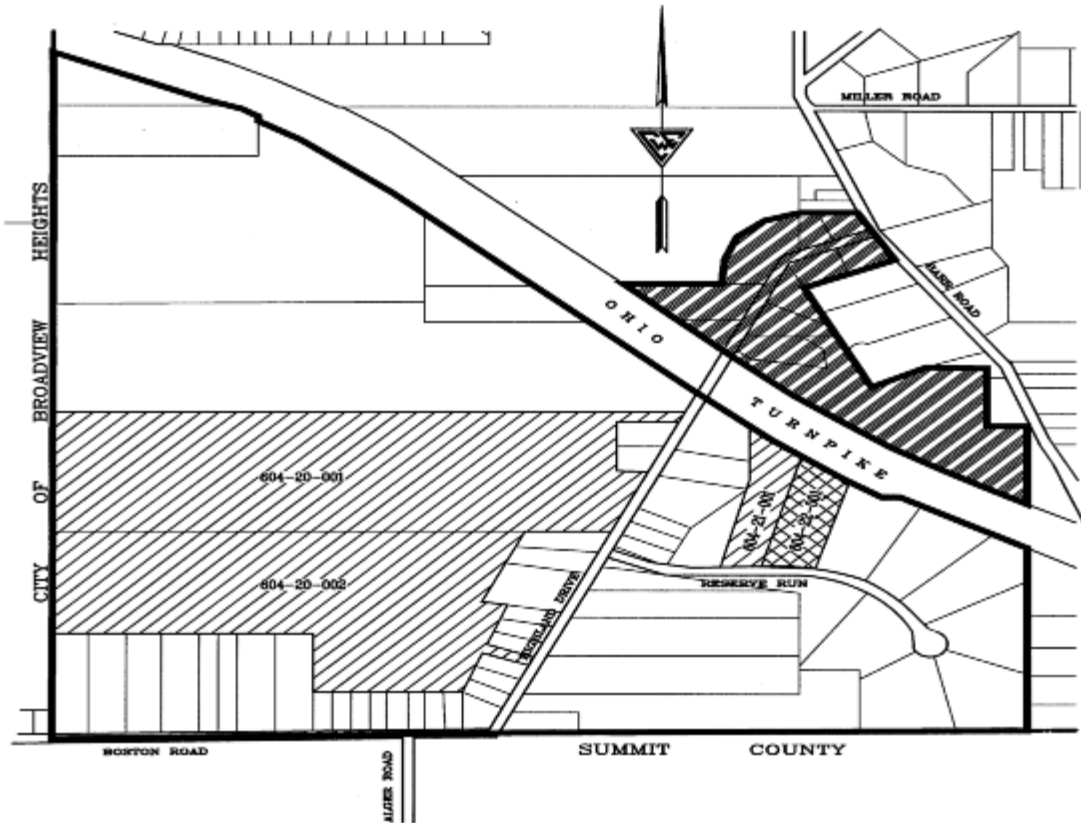
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### Section

907.01	District established; map
907.02	Necessity of connection charges
907.03	Completion date
907.04	Water line connection permit; charges
907.05	Sanitary sewer connection permit; charges
907.06	Highland-Boston Water And Sewer District Fund.
907.07	Additional Assessments and charges
907.08	Unlawful connection

### **§ 907.01 DISTRICT ESTABLISHED; MAP.**

The city hereby establishes the Highland-Boston Water and Sewer District the boundaries of which are depicted in the Highland-Boston Water and Sewer District Map.







**HIGHLAND-BOSTON WATER AND SEWER DISTRICT  
BOUNDARY MAP**

SCALE: 1" = 600'

OCTOBER 1998  
Revised May 1999  
Revised December 1999

PREPARED BY: THE C.W. COURTNEY COMPANY

-  BOUNDARY OF DISTRICT
-  PROPERTIES EXEMPTED FROM DISTRICT SANITARY & WATER TAP-IN FEES
-  PROPERTIES EXEMPTED FROM DISTRICT WATER TAP-IN FEES ONLY
-  PROPERTIES EXEMPTED FROM DISTRICT SANITARY TAP-IN FEES ONLY

(Ord. 3713, passed 3-2-99; Am. Ord. passed 3789, passed 3-7-00)

**§ 907.02 NECESSITY OF CONNECTION CHARGES.**

It is hereby declared to be necessary for the protection for the public health, safety and welfare of the city and its residents to establish and collect the connection (tap-in) charges provided herein for the connection of any lot or lands and any building or other structure thereon into the sanitary sewer system and/or water lines located within the Highland-Boston Water and Sewer District.

(Ord. 3713, passed 3-2-99)

**§ 907.03 COMPLETION DATE.**

For the purposes of this chapter the term *COMPLETION DATE* means the date on which the sanitary sewerage system or the water line, as the case may be, to be hereinafter constructed by the city to serve the lots and lands located within the Highland-Boston Water and Sewer District, is certified by the City Engineer to be substantially complete and available for service from the lots and parcels of land located within said District.

(Ord. 3713, passed 3-2-99)

**§ 907.04 WATER LINE CONNECTION PERMIT; CHARGES.**

(a) No person, corporation, partnership or unincorporated association shall connect, or cause to be connected, any lot or lands or any building or other structure either directly or indirectly to the water lines located within the Highland-Boston Water and Sewer District without first securing from the Building Commissioner, or his or her designated representative, a permit for such purpose in a form prescribed by the Building Commissioner, upon payment by the applicant of the charges provided for in subsections (b) and (c) hereof and any additional charges determined to be payable in accordance with any other provision of this code.

(b) No waterline connection (tap-in) permit shall be issued until the applicant has paid the charges as provided in § 1325.04 of this code.

(c) No water line connection permit shall be issued for any lot or parcel of lands for which a one hundred percent (100%) benefit assessment has not been, or is not to be, levied as may be provided, until the applicant has paid, in addition to the charge specified in subsection (b) of this section, a connection (tap-in) charge to be determined in accordance with the

following schedule, in order to equalize the amounts paid by users of the trunk water lines and laterals forming an essential part of the water supply system.

<i>Permit Obtained</i>	<i>Amount of Tap-In Fee</i>
On or Before January 1, 2000	\$4,600
From January 2, 2000 Until January 1, 2003	4,800
From January 2, 2003 Until January 1, 2007	5,200
From January 2, 2007 Until January 1, 2011	5,600
From January 2, 2011 Until January 1, 2015	6,000
From January 2, 2015 Until January 1, 2019	6,400
From January 2, 2019 and Thereafter	6,800

(Ord. 3713, passed 3-2-99)

**§ 907.05 SANITARY SEWER CONNECTION PERMIT; CHARGES**

(a) No person, corporation, partnership or unincorporated association shall connect, or cause to be connected, any lot or lands or any building or other structure either directly or indirectly to the sanitary sewer lines located within the Highland-Boston Water and Sewer District without first securing from the Building Commissioner, or his or designated representative, a permit for such purpose in a form prescribed by the Building Commissioner, upon payment by the applicant of the charges provided for in subsections (b) and (c) hereof and any additional charges determined to be payable in accordance with any other provision of this code.

(b) No sanitary sewer connection permit shall be issued for any lot until the applicant has paid the charges as provided for in § 1314.19 of this code.

(c) No sanitary sewer connection permit shall be issued for any lot or parcel of lands for which a one hundred percent (100%) benefit assessment has not been, or is not to be, levied, as may be provided, until the applicant has paid, in addition to the charges specified in subsection (b) of this section, a connection (tap-in) charge to be determined in accordance with



the following schedule, in order to equalize the amounts paid by users of the trunk sanitary sewer lines and laterals forming an essential part of the system.

<i>Permit Obtained</i>	<i>Amount of Tap-In Fee</i>
On or Before January 1, 2000	\$3,500
From January 2, 2000 Until January 1, 2003	3,700
From January 2, 2003 Until January 1, 2007	4,000
From January 2, 2007 Until January 1, 2011	4,300
From January 2, 2011 Until January 1, 2015	4,600
From January 2, 2015 Until January 1, 2019	4,900
From January 2, 2019 and Thereafter	5,200

(Ord. 3713, passed 3-2-99)

**§ 907.06 HIGHLAND-BOSTON WATER AND SEWER DISTRICT FUND.**

All moneys collected by the city as charges pursuant to the provision of this chapter, other than those charges specified in §§ 907.04(b) and 907.05(b) herein, shall be deposited in the Highland-Boston Water and Sewer District Fund. The funds contained in the Highland-Boston Water and Sewer District Fund shall be used exclusively by the city to maintain, enlarge, replace, extend or construct waterlines and/or sanitary sewers, and all appurtenances incident thereto located or to be located within Highland-Boston Water and Sewer District, and to pay the costs of engineering and other administrative costs associated therewith.

(Ord. 3713, passed 3-2-99)

**§ 907.07 ADDITIONAL ASSESSMENTS AND CHARGES.**

The imposition of charges and the issuance of permits provided for in this chapter shall not preclude the subsequent levy of special assessments against benefited lots and lands to provide funds for the construction of water lines and/or sanitary sewers required to provide local

sewer service to such lots and lands located within this District, and the permits and charges provided for herein are in addition to any other permits and charges required by law and by ordinance or regulation of the city.

(Ord. 3713, passed 3-2-99)

**§ 907.08 UNLAWFUL CONNECTION.**

In the event that any lot or land or building or other structure thereon is connected directly or indirectly to the water lines and/or sanitary sewer lines located within the Highland-Boston Water And Sewer District in violation of any provision of this chapter, and the owner, agent, lessee, tenant or occupant of such lot or land fails or refuses to disconnect the same upon being directed to do so by the Building Commissioner, the Building Commissioner is hereby authorized to cause such lot or land to be disconnected from the water line and/or sanitary sewer line, and the violator shall be liable to the city for the cost of making such disconnection.

(Ord. 3713, passed 3-2-99)

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**CHAPTER 909: WHITEWOOD-HILTON SANITARY SEWER DISTRICT**

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Section

909.01	District established; map
909.02	Necessity of connection charges
909.03	Completion date
909.04	Sanitary sewer connection permit; charges
909.05	Whitewood-Hilton Sanitary Sewer District Fund
909.06	Additional assessments and charges
909.07	Unlawful connection

**§ 909.01 DISTRICT ESTABLISHED; MAP.**

The city hereby establishes the Whitewood-Hilton Sanitary Sewer District, the boundaries of which are depicted in the map attached to Ordinance No. 4169, passed May 3, 2005, expressly made a part thereof by reference, and marked Exhibit "A".

(Ord. 4169, passed 5-3-05)

**§ 909.02 NECESSITY OF CONNECTION CHARGES.**

It is hereby declared to be necessary for the protection of the public health, safety and welfare of the city and its residents to establish and collect the connection (tap-in) charges provided herein for the connection of any lot or lands and any building or other structure thereon into the sanitary sewer system located within the Whitewood-Hilton Sanitary Sewer District.

(Ord. 4169, passed 5-3-05)

**§ 909.03 COMPLETION DATE.**

For the purposes of this chapter the term *COMPLETION DATE* means the date on which the sanitary sewerage system constructed by the city to serve the lots and lands located within the Whitewood-Hilton Sanitary Sewer District, is certified by the City Engineer to be substantially complete and available for service to the lots and parcels of land located within said District.

(Ord. 4169, passed 5-3-05)

**§ 909.04 SANITARY SEWER CONNECTION PERMIT; CHARGES.**

(a) No person, corporation, partnership or unincorporated association shall connect, or cause to be connected, any lot or lands or any building or other structure either directly or indirectly to the sanitary sewer lines located within the Whitewood-Hilton Sanitary Sewer District without first securing from the Building Commissioner, or his or her designated representative, a permit for such purpose in a form prescribed by the Building Commissioner, upon payment by the applicant of the charges provided for in subsections (b) and (c) hereof and any additional charges determined to be payable in accordance with any other provision of the Codified Ordinances of the city.

(b) No sanitary sewer connection permit shall be issued until the applicant has paid the charges as provided for in § 1314.19 of this code.

(c) No sanitary sewer connection permit shall be issued for any lot or parcel of lands for which a one hundred percent (100%) benefit assessment has not been, or is not to be, levied,

pursuant to Resolution 3533, adopted February 4, 2003, until the applicant has paid, in addition to the charges specified in subsection (b) hereof, a connection (tap-in) charge to be determined in accordance with the following schedule, in order to equalize the amounts paid by users of the trunk sanitary sewer lines and laterals forming an essential part of the system.

<i>Permit Amount of Obtained</i>	<i>Tap-In Fee</i>
On or Before January 1, 2007	\$1,035
From January 2, 2008 Until January 1, 2011	\$1,130
From January 2, 2012 Until January 1, 2015	\$1,260
From January 2, 2016 and thereafter	\$1,410

(Ord. 4169, passed 5-3-05)

**§ 909.05 WHITEWOOD-HILTON SANITARY SEWER DISTRICT FUND.**

All moneys collected by the city as charges pursuant to the provisions of this chapter, other than those charges specified in Section 909.04(b) herein, shall be deposited in the Whitewood-Hilton Sanitary Sewer District Fund. The funds contained in the Whitewood-Hilton Sanitary Sewer District Fund shall be used exclusively by the city to maintain, enlarge, replace, extend or construct sanitary sewers, and all appurtenances incident thereto located or to be located within the Whitewood-Hilton Sanitary Sewer District, and to pay the costs of engineering and other administrative costs associated therewith.

(Ord. 4169, passed 5-3-05)

**§ 909.06 ADDITIONAL ASSESSMENTS AND CHARGES.**

The imposition of charges and the issuance of permits provided for in this chapter shall not preclude the subsequent levy of special assessments against benefitted lots and lands to provide funds for the construction of sanitary sewers required to provide local sewer service to such lots and lands located within this District, and the permits and charges provided for herein are in addition to any other permits and charges required by law and by ordinance or regulation of the city.

(Ord. 4169, passed 5-3-05)

**§ 909.07 UNLAWFUL CONNECTION.**

In the event that any lot or land or building or other structure thereon is connected directly or indirectly to the sanitary sewer lines located within the Whitewood-Hilton Sanitary Sewer District in violation of any provision of this chapter, and the owner, agent, lessee, tenant or occupant of such lot or land fails or refuses to disconnect the same upon being directed to do so by the Building Commissioner, the Building Commissioner is hereby authorized to cause such lot or land to be disconnected from the sanitary sewer line, and the violator shall be liable to the city for the cost of making such disconnection.

(Ord. 4169, passed 5-3-05)

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**CHAPTER 910: ECHO-SNOWVILLE SANITARY SEWER DISTRICT**

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Section

910.01	District established; map
910.02	Necessity of connection charges
910.03	Completion date
910.04	Sanitary sewer connection permit; charges
910.05	Echo-Snowville Sanitary Sewer District Fund
910.06	Additional assessments and charges
910.07	Unlawful connection

**§ 910.01 DISTRICT ESTABLISHED; MAP.**

The city hereby establishes the Echo-Snowville Sanitary Sewer District ("Sanitary Sewer District") the boundaries of which are depicted in the Echo-Snowville Sanitary Sewer District Map ("District Map"), a copy of which is attached to Ordinance No. 4495, passed June 16, 2009, expressly made a part hereof by reference and marked Exhibit "A". The Sanitary Sewer District boundaries may be expanded or changed based upon subsequent legislation of City Council.

(Ord. 4495, passed 6-16-09)

**§ 910.02 NECESSITY OF CONNECTION CHARGES.**

It is hereby declared to be necessary for the protection for the public health, safety and welfare of the city and its residents to establish and collect the connection (tap-in) charges provided herein for the connection of any lot or lands and any building or other structure thereon into and/or utilizing the sanitary sewer system located within the Echo-Snowville Sanitary Sewer District.

(Ord. 4495, passed 6-16-09)

**§ 910.03 COMPLETION DATE.**

For the purposes of this chapter the term *COMPLETION DATE* means the date on which the sanitary sewerage system to be hereinafter constructed or cause to be constructed by the city to serve the lots and lands located within the Echo-Snowville Sanitary Sewer District, is certified by the City Engineer to be substantially complete and available for service from the lots and parcels of land located within said District.

(Ord. 4495, passed 6-16-09)

**§ 910.04 SANITARY SEWER CONNECTION PERMIT; CHARGES.**

(a) No person, corporation, partnership or unincorporated association shall connect, or cause to be connected, any building or other structure either directly or indirectly to the sanitary sewer lines located within the Echo-Snowville Sanitary Sewer District and located within Sub-District "A" as delineated in the District Map without first securing from the Building Commissioner, or his or her designated representative, a permit for such purpose in a form prescribed by the Building Commissioner, and upon the payment by the applicant of \$4,250 and the applicable charges as provided in § 1314.19 of this Code of Ordinances, or any amendments made thereto. The property located within the boundaries of Sub-District "A" as of the effective date of this ordinance shall remain the same and shall not be amended as provided in § 910.01.

(b) Each property owner located within Sub-District "B" shall pay a conversion fee in the amount as set forth in the sanitary sewer rate resolution adopted by the Board of Commissioners of Cuyahoga County for the conversion of the Echo Hills Wastewater Treatment Plant into a sanitary sewer pump station. These funds shall be collected in accordance with

applicable law.

(c) No person, corporation, partnership or unincorporated association shall connect, or cause to be connected, any building or other structure either directly or indirectly to the sanitary sewer lines located within the Echo-Snowville Sanitary Sewer District and located within Sub-District "C" as delineated in the District Map without first securing from the Building Commissioner, or his or her designated representative, a permit for such purpose in a form prescribed by the Building Commissioner, and upon payment by the applicant of the following charges:

<i>Permit Obtained</i>	<i>Amount of Tap-In Fee</i>
On or Before January 1, 2011	\$6,000
From January 2, 2011 Until January 1, 2014	\$7,250
From January 2, 2014 Until January 1, 2018	\$9,000
From January 2, 2018 Until January 1, 2022	\$10,500
From January 2, 2022 Until January 1, 2026	\$11,500
From January 2, 2026 and Thereafter	\$12,750

(d) No person, corporation, partnership or unincorporated association shall connect, or cause to be connected, any building or other structure either directly or indirectly to the sanitary sewer lines located within the Echo-Snowville Sanitary Sewer District and located within Sub-District "D" as delineated in the District Map without first securing from the Building Commissioner, or his or her designated representative, a permit for such purpose in a form prescribed by the Building Commissioner, and upon payment by the applicant of the following charges:

<i>Permit Obtained</i>	<i>Amount of Tap-In Fee</i>
On or Before January 1, 2011	\$6,750
From January 2, 2011 Until January 1, 2014	\$7,750
From January 2, 2014 Until January 1, 2018	\$8,750
From January 2, 2018 Until January 1, 2022	\$10,750

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<i>Permit Obtained</i>	<i>Amount of Tap-In Fee</i>
From January 2, 2022 Until January 1, 2026	\$12,000
From January 2, 2026 and Thereafter	\$14,750

In addition to the charges listed above, payment by the applicant of the applicable charges as provided in § 1314.19 of this Code of Ordinances, or any amendments made thereto.

(e) No person, corporation, partnership or unincorporated association shall connect, or cause to be connected, any building or other structure either directly or indirectly to the sanitary sewer lines located within the Echo-Snowville Sanitary Sewer District and located within Sub-District "E" as delineated in the District Map without first securing from the Building Commissioner, or his or her designated representative, a permit for such purpose in a form prescribed by the Building Commissioner, and upon payment by the applicant of the following charges:

<i>Permit Obtained</i>	<i>Amount of Tap-In Fee</i>
On or Before January 1, 2011	\$6,000
From January 2, 2011 Until January 1, 2014	\$7,250
From January 2, 2014 Until January 1, 2018	\$9,000
From January 2, 2018 Until January 1, 2022	\$10,500
From January 2, 2022 Until January 1, 2026	\$11,500
From January 2, 2026 and Thereafter	\$12,750

(f) In the event any existing residential parcel which currently has a house located thereon is subsequently subdivided with the approval of the city, all or that portion of the subdivided land which does not have a house located thereon, or if the existing house is razed, all such land shall be included in Sub-District "D" and shall be subject to all of the connection charges as specified in division (d) of this section.

(Ord. 4495, passed 6-16-09)



**§ 910.05 ECHO-SNOWVILLE SANITARY SEWER DISTRICT FUND.**

All moneys collected by the city as charges pursuant to the provision of this chapter, except for those charges made as provided in § 1314.19 of this Code of Ordinances, shall be deposited in the Echo-Snowville Sanitary Sewer District Fund. The moneys contained in the Echo-Snowville Sanitary Sewer District Fund shall be used exclusively by the city to repay advances of funds for the construction of this sanitary sewer system; to reimburse Cuyahoga County Sanitary District 13 funds for the use of District 13 funds to finance a portion of this sanitary sewer system; to maintain, enlarge, replace, extend or construct sanitary sewers, and all appurtenances incident thereto, located or to be located within the Echo-Snowville Sanitary Sewer District as the District boundaries may change from time to time; and to pay the costs of engineering and other administrative costs associated therewith.

(Ord. 4495, passed 6-16-09)

**§ 910.06 ADDITIONAL ASSESSMENTS AND CHARGES.**

The imposition of charges and the issuance of permits provided for in this chapter shall not preclude the subsequent levy of special assessments against benefitted lots and lands to provide funds for the construction of sanitary sewers required to provide local sewer service (except for Sub-District "A") to such lots and lands located within this District.

(Ord. 4495, passed 6-16-09)

**§ 910.07 UNLAWFUL CONNECTION.**

In the event that any lot or land or building or other structure thereon is connected directly or indirectly to the sanitary sewer lines located within the Echo-Snowville Sanitary Sewer District in violation of any provision of this chapter, and the owner, agent, lessee, tenant or occupant of such lot or land fails or refuses to disconnect the same upon being directed to do so by the Building Commissioner, the Building Commissioner is hereby authorized to cause such lot or land to be disconnected from the sanitary sewer line, and the violator shall be liable to the city for the cost of making such disconnection.

(Ord. 4495, passed 6-16-09)

## CHAPTER 913: CEMETERIES

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Section

913.01	Rules for lot sale and burial
913.02	Lot ownership, boundaries and size
913.03	Lot sale price; terms of payment
913.04	Grades and planting
913.05	Interments; rules and charges
913.06	Disinterments
913.07	Monuments and headstones
913.08	Rules of conduct
913.09	Police powers of Director of Public Service
913.99	Penalty

***Statutory reference:***

*Allowing for burials to be prohibited, see R.C. § 759.05*

*Union cemeteries, see R.C. § 759.27*

### **§ 913.01 RULES FOR LOT SALE AND BURIAL.**

The rules and regulations for the operation of the municipal cemeteries within the City of Brecksville shall be as follows, and as provided in other applicable sections of this Chapter:

(a) Cemetery lots, burial spaces, graves, and columbarium niches may be sold only to persons or their estate representative who on the date of purchase are, or were, and for one (1) year or more next preceding such date have or had been bona fide residents of the municipality or on such date are, or were, and for one (1) year or more next preceding such date have or had been owners of real property located in the municipality, except that no more than one (1) burial space may be sold to any other person and only for the sole purpose of burying therein the deceased spouse of any person then buried in the same cemetery or for the sole purpose of burying therein any former elected or appointed official of the City of Brecksville.

(b) Only the following persons may be buried in any of the cemeteries maintained by the municipality: The owner of record or qualified grantee of any cemetery lot, grave or burial space therein, columbarium niche, his or her parents or grandparents, children and grandchildren, and any person who at the date of his or her death is the husband, wife, daughter-in-law or

son-in-law of the owner of record, whether then living or deceased, and any blood relative of such record owner.

(c) Upon the death of an owner, it is the duty of the heirs, devisees to file with the Sexton of Cemeteries competent proof of their right to the continued use and ownership of the cemetery lot, grave or columbarium niche. Further burials may not be permitted until such proof is presented and accepted.

(d) The Mayor, upon the approval of a majority of the members elected or appointed to Council, may waive the provisions of Subsections (a) and/or (b) hereof upon the express finding of the existence of extenuating or mitigating circumstances, which, in the sole discretion of the Mayor and Council, warrant the waiver of either or both of such Subsections.

(e) The owner of any cemetery lot, grave or burial space, or columbarium niche, may at any time convey same to the municipality and receive therefor the original purchase price paid, but no owner of any cemetery lot, burial space or grave, or columbarium niche, shall sell or offer the same for sale except to this municipality.

('64 Code, § 913.01) (Ord. 2919, passed 11-3-87; Am. Ord. 3986, passed 10-15-02; Am. Ord. 4068, passed 11-18-03) Penalty, see § 913.99

### **§ 913.02 LOT OWNERSHIP, BOUNDARIES AND SIZE.**

(a) The deed or certificate of ownership to any cemetery lot, grave or burial space, columbarium niche, in any municipal cemetery conveys only the right of burial as provided in § 913.01(b) of this Chapter. The title to the land remains in the municipality and its successors or assigns. When a cemetery lot, grave or burial space, or columbarium niche is conveyed to two (2) or more persons, they shall have equal rights of burial therein. All cemetery lots, graves or burial spaces, columbarium niches in any of the municipal cemeteries are exempt from taxation and cannot be seized for debt nor attached by any process at law and cannot be mortgaged.

(b) No sale, transfer or assignment of the certificate of ownership or deed of any cemetery lot shall be valid without the consent thereto of the Service Director. When any person acquires a lot by transfer, the deed or certificate of ownership shall be presented to the Director of Public Service for a proper record thereof.

(c) The municipality shall retain control and supervision of all cemetery lots, graves, burial spaces, or columbarium niches which have been sold. It shall be the duty of the Director of Public Service to enter upon any such cemetery lot, grave or burial space and modify or remove any structure, object, planting or adornment on such cemetery lot, grave or burial space which may have been erected or placed thereon in violation of the rules and regulations

governing the cemetery.

(d) The ownership of a deed or certificate of ownership to any cemetery lot, graves, burial space, or columbarium niche in any municipal cemetery does not confer any right to do any planting or to erect any monument, headstone, mausoleum, monumental vase or any other structure thereon, except in accordance with the rules and regulations of as approved by City Council.

(e) If any permanent planting of trees or shrubbery by the owner of any cemetery lot, graves or burial space shall be approved by the Director of Public Service, the trees or shrubs shall become the property of the municipality. If any tree or shrub standing on any cemetery lot, graves, burial space shall by reason of disease or decay or by means of its roots or branches or otherwise become detrimental to adjacent lots, walks or driveways, the Director of Public Service shall cause the removal of such tree or shrub or any part thereof as in his or her sole judgment may be necessary.

(f) The boundaries of all cemetery lots or graves in the municipal cemeteries are designated by cornerstones set by the municipality. The locations of any cornerstones shall not project above the surface of the ground.

(g) A cemetery lot in Sections 3 and 4 of the Highland Drive Cemetery shall consist of four (4) burial spaces. One (1) or more burial spaces in any cemetery lot may be sold to any person permitted under this chapter to purchase a cemetery lot, burial space or grave.

('64 Code, § 913.02) (Ord. 2236, passed 7-6-76; Am. Ord. 3986, passed 10-15-02) Penalty, see § 913.99

### **§ 913.03 LOT SALE PRICE; TERMS OF PAYMENT.**

(a) The price of graves in the Highland Drive Cemetery, Riverside Cemetery and any future cemeteries shall be \$500 except:

- (1) In the Baby Section at Highland Drive Cemetery, which shall be \$40 per grave space;
- (2) In Section 1, 1A, 1B, and 2 at Highland Drive Cemetery, which shall be \$750 per grave space; and
- (3) In Section 5 at Highland Drive Cemetery, which is noted in division (b) of this section.

(b) In Section 5 of the Brecksville Highland Drive Cemetery, the prices for interment

spaces are as follows:

(1) Cremation graves (3' x 3') shall be \$225 per grave. A cremation grave may contain no more than two (2) cremation urns placed one (1) above the other.

(2) Graves which are permitted to have only flush headstones shelf shall be \$325 per grave. One (1) cremation urn shall be permitted to be placed in the same grave with one (1) casket regardless of the order of placement.

(3) Graves which are permitted to have raised markers shall be \$450 per grave. One (1) cremation urn shall be permitted to be placed in the same grave with one (1) casket regardless of the order of placement. A flush headstone in lieu of a raised marker may be permitted on these graves.

(4) Graves which are permitted to have upright monuments (a monument being a structure consisting of two (2) components) shall be \$500 per grave. One (1) cremation urn shall be permitted to be placed in the same grave with one (1) casket regardless of the order of placement. A raised marker or flush headstone in lieu of an upright monument may be permitted on these graves.

(5) A niche in a columbarium shall be \$500. This niche may contain not more than two (2) cremation urns.

(6) Graves that are designated for the use of monuments may be converted into raised marker graves.

(7) Full sized graves may contain no more than two (2) cremation urns in lieu of containing a casket.

(c) When any sale or authorized transfer of a cemetery lot or grave space is made, the municipality shall give a deed in conformity with R.C. §§ 517.07 through 517.11 and 759.14 through 759.17, conveying only the burial rights provided for by this chapter and not ownership of the lot or grave space described therein.

(d) All lots shall be paid for in cash at the time of purchase.

('64 Code, § 913.03) (Ord. 2236, passed 7-6-76; Am. Ord. 2511, passed 8-5-80; Am. Ord. 3986, passed 10-15-02; Am. Ord. 4823, passed 2-4-14)

#### **§ 913.04 GRADES AND PLANTING.**

(a) The grade of all cemetery grounds shall be established by the municipality. The Director of Public Service shall, as nearly as practicable, bring the surface of all cemetery lots,

graves or burial spaces to the existing established grades.

(b) An owner of any cemetery lot, grave or burial space shall not be permitted to change the grade of any cemetery lot, grave or burial space to conform to a raised marker, monument or for any other purpose.

(c) No fences, walls, hedges, posts, chains, curbing or enclosures of any kind around any cemetery lot, grave or burial space shall be permitted.

(d) No plants, shrubs, trees, potted plants, benches, chairs or planters, trellises, candles, statues or other items shall be permitted on any grave or burial space. A wooden cross, the size and location of which as approved by the Director of Public Service, is permitted as a temporary marker for a period not to exceed one (1) year from the date of burial. The use of flower receptacles projecting above ground level are prohibited. Only ground level metal bouquet holders of the kind and size available at the office of the Director of Public Service may be used. In Section 5 of the Highland Drive Cemetery, annual flowers may be planted in mulched headstone/marker/ monument areas within the boundaries of an owner's cemetery lot or grave. All holiday decorations, religious symbols and wreaths may be placed no earlier than forty-five (45) days prior to a national or religious holiday and must be removed within forty-five (45) days after such national or religious holiday.

('64 Code, § 913.04) (Ord. 2236, passed 7-6-76; Am. Ord. 3986, passed 10-15-02; Am. Ord. 4252, passed 5-2-06) Penalty, see § 913.99

### **§ 913.05 INTERMENTS; RULES AND CHARGES.**

(a) No interment may be made unless the body or remains is accompanied by a burial permit.

(b) The location of graves upon a cemetery lot shall be designated by the Director of Public Service.

(c) The charge for interment, opening and closing of a grave, providing green carpet, the use of a mechanical lowering device and the final leveling and seeding of the grave site shall be as follows:

(1) For a grave in the Baby Section the charge shall be \$100 per grave.

(2) For a full-sized grave the charge shall be \$200 per grave.

(3) For burial of remains in the case of cremation the charge shall be \$100.

For the placement of remains in a niche of any columbarium the charge shall be \$100.

(4) An additional fee of \$200 shall be required for Saturday and holiday burials and \$100 for the burial or placement of a cremation urn.

(5) When a body is to be exhumed the fee will be as determined by the Director of Public Service and payable at the time the request for exhumation is made.

(d) All burials shall be in graves equipped with concrete vaults constructed in accordance with specifications on file in the office of the Director of Public Service, and installed by persons skilled in such work. In the case of cremations, all burials shall be in crematory urns constructed so as to constitute an air-tight, water-tight container.

(e) All charges for the opening and closing of a grave are due and payable when the request is made. Unless special permission is obtained from the Director of Public Service, two (2) days' notice is required for the preparation of a grave.

(f) Interments on Sunday are not permitted except with the approval of the Director of Public Service.

(g) No more than one (1) casket shall be placed in one (1) burial space or one (1) grave, and no more than four (4) crematory urns shall be placed in one (1) grave site, except as provided in § 913.03(b)(7) of this Chapter.

('64 Code, § 913.05) (Ord. 2236, passed 7-6-76; Am. Ord. 2511, passed 8-5-80; Am. Ord. 2702, passed 2-21-84; Am. Ord. 3986, passed 10-15-02)

### **§ 913.06 DISINTERMENTS.**

Notice shall be given to the Cemetery Sexton of a desire to disinter a body or other remains. The date and time of such disinterment shall be at the discretion of the Director of Public Service. A disinterment may only occur if the Cemetery Sexton is first provided in writing the appropriate consent or authority to perform such disinterment in accordance with the following:

- (a) Upon the issuance of a court order from a court of competent jurisdiction.
- (b) The duly appointed Administrator of the estate of the individual sought to be disinterred.
- (c) The surviving spouse of the deceased.
- (d) In the event there is no surviving spouse, then an adult child of the deceased provided that all other surviving adult children of the deceased consent in writing to such

disinterment.

(e) In the event there is no surviving spouse or surviving adult children, then the parent of the deceased provided that the other surviving parent of the deceased consents in writing to such disinterment.

(f) No other individual, who is not listed in subsection (b) through (e) of this section, shall be entitled to disinter the body or remains of any individual in the absence of court order from a court of competent jurisdiction.

(Ord. 3986, passed 10-15-02)

### **§ 913.07 MONUMENTS AND HEADSTONES.**

(a) No monument may be erected or placed in any municipal cemetery until its size and proposed location upon any cemetery lot, grave or burial space shall have been approved by the Director of Public Service.

(b) Monuments, monumental urns, headstones and markers shall be set with reasonable uniformity of as to line, grade and setting. To maintain such uniformity the Director of Public Service may reset any such structure at the expense of the municipality. The location of headstones or other markers on smaller lots shall be as designated by the Director of Public Service.

(c) No monument shall be placed nearer than one (1) foot to the boundary line on the cemetery lot or grave on which it stands. Its base shall not exceed one-half (½) of the width of the cemetery lot or grave nor more than twenty-five percent (25%) of the area of the cemetery lot or grave. The foundation for all monuments, headstones or markers shall be of like construction and built under the direction of the Director of Public Service. The cemetery lot or grave owner shall pay for the construction of the foundation at the rate of \$15 per square foot, with a minimum charge of \$30. Payment shall be made when the request is made.

(d) No headstone shall be placed nearer than six (6) inches to the cemetery lot line or grave border. The cemetery lot or grave owner shall pay a fee of \$44 or actual costs, whichever is greater, for the base and setting of an individual marker not over twenty-four (24) inches long; a fee of \$54 or actual costs, whichever is greater, for the base and setting of a double headstone up to thirty-six (36) inches long; and a fee of \$64 or actual costs, whichever is greater, for the base and setting of a double headstone forty-eight (48) inches long.

(e) Only one (1) headstone or grave marker may be placed upon any one (1) grave, except in the case of an approved military headstone, and no headstone or marker more than twenty-four (24) inches long or more than twelve (12) inches wide or less than four (4) inches



thick may be used in any cemetery. The location of any headstone or marker shall first be approved by the Director of Public Service.

(f) No monuments, headstones or markers shall be set in any of the cemeteries between May 20 and May 31, inclusive, of each year. In Sections 3 and 4 of the Highland Drive Cemetery, all headstones or markers hereinafter installed shall be granite or bronze flush with the ground surface to meet cemetery regulations.

(g) In Section 5 of the Highland Drive Cemetery:

(1) Only single, flush headstones or flush markers shall be permitted on graves in the cremation section.

(2) All plaques on columbarium niches shall be of uniform design as determined by the Cemetery Sextant. The cost of engraving the columbarium plaque is included in the purchase price of the niche.

(3) Flush headstones shall conform with subsection (e) listed above; raised headstones markers and monuments shall not be wider than twelve (12) inches.

(4) A minimum of two (2) graves located directly contiguous to each other must be purchased to erect a monument. The length of the monument shall not exceed six (6) feet; if six (6) graves located directly contiguous to each other, are purchased, the length of the monument shall not exceed eight (8) feet.

(5) There shall be a height limit of six (6) feet for all raised headstones, markers and monuments.

(6) Where there is a monument which contains only the last name of the family, a single, flush head or foot stone may be placed on a burial space with the individual's name and dates of birth and death.

('64 Code, § 913.06) (Ord. 2236, passed 7-6-76; Am. Ord. 2511, passed 8-5-80; Am. Ord. 3986, passed 10-15-02; Am. Ord. 4923, passed 4-7-15) Penalty, see § 913.99

### **§ 913.08 RULES OF CONDUCT.**

(a) Cemeteries are established for the burial of the dead and to perpetuate their memory. All visitors shall respect the solemnity of the municipal cemeteries.

(b) No person shall discharge firearms within any municipal cemetery, except at military funerals, Memorial Day exercises or other occasions approved by the Director of Public

Service.

- (c) No hunting of any kind is permitted within the limits of any municipal cemetery.
- (d) All persons are prohibited from cutting or removing any plants or flowers, whether wild or cultivated, in any municipal cemetery and are further prohibited from cutting, trimming or injuring any tree or shrub or marring any monument or landmark or in any way defacing the cemetery grounds.
- (e) No person shall deposit any debris or waste material of any kind at any place within the municipal cemeteries except in receptacles provided therefor.
- (f) The placing of any advertisement of any nature anywhere within a municipal cemetery is prohibited.
- (g) The use of bicycles in all cemeteries is limited to paved areas only. The speed of motor vehicles within the cemeteries shall not exceed fifteen (15) miles per hour.
- (h) No animals of any kind, except for guide dogs or other animals used in the assistance of disabled individuals, are permitted within any of the municipal cemeteries. The walking or exercising of dogs within any of the municipal cemeteries is strictly prohibited.
- (i) Only vehicles of those people who are visiting or working in the municipal cemeteries are permitted. All vehicles shall be parked so that all tires of such vehicles shall be located on the hard surface of the cemetery roadway.
- (j) No person shall enter upon any municipal cemetery grounds during the hours from sundown to sunup except upon written permission of the Director of Public Service. Any person found within any municipal cemetery grounds during such hours without written permission of the Director of Public Service shall be prima-facie guilty of trespass, and upon being found guilty thereof shall be subject to punishment as provided in § 913.99 of this chapter.

('64 Code, § 913.07) (Ord. 2236, passed 7-6-76; Am. Ord. 3986, passed 10-15-02; Am. Ord. 4252, passed 5-2-06) Penalty, see § 913.99

### **§ 913.09 POLICE POWERS OF DIRECTOR OF PUBLIC SERVICE.**

The Director of Public Service is hereby appointed as a special police officer of the municipality with full power and authority to enforce the laws of the state and this chapter in and about the municipal cemeteries, and is authorized to arrest without warrant and bring before the proper authorities any person he or she may find violating state law or the terms of this chapter. This section shall in no way limit the power or authority of police and other authorized personnel

to enforce the laws of the State of Ohio or of this municipality.

('64 Code, § 913.08) (Ord. 2236, passed 7-6-76; Am. Ord. 3986, passed 10-15-02)

**§ 913.99 PENALTY.**

(a) Whoever violates § 913.07(j) of this chapter shall be deemed guilty of a misdemeanor of the first degree.

(b) Whoever violates any other provision of this Chapter or any lawful order of the Director of Public Service shall be deemed guilty of a minor misdemeanor.

(c) Whoever commits any other crime or other type of offense within the boundaries of any municipal cemetery not specifically mentioned in this Chapter, said individual shall be punished as may be provided in that applicable law.

('64 Code, § 913.99) (Ord. 2236, passed 7-6-76; Am. Ord. 3986, passed 10-15-02)

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**CHAPTER 915: TREES, HEDGES AND SHRUBS**

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Section

915.01	Purpose
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915.03	Applicability
915.04	Exemptions
915.05	Tree savings plan
915.06	Tree Warden
915.07	Private care of trees on public property
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915.09	Permitted and prohibited trees
915.10	Trees, hedges and bushes on private property
915.11	Prohibited practices
915.99	Penalty

***Cross-reference:***

*Cemetery trees and shrubbery, see § 913.02(e)*

*Injury or destruction of trees or growing products, see § 541.06*

*Landscaping, see § 1151.39*

*Licensing landscapers, see § 1311.01*

### **§ 915.01 PURPOSE.**

The purpose of this chapter is to promote the public's health, safety and general welfare, through the regulation of the preservation, planting and placement of trees, hedges and shrubs in order to:

(a) Preserve, protect and enhance the natural beauty, environment and property values of the city by preserving trees and natural areas to moderate storm water runoff, reduce erosion and sedimentation, provide natural screening and shading, lessen air pollution, intercept airborne particulate matter, reduce noise and moderate air temperatures; and

(b) Provide for a Tree Savings Plan for all new developments so as to preserve and protect the natural environment and promote the purposes of this chapter; and

(c) Provide for a City Tree Warden and promulgate duties for such position for the control and supervision of all trees on city owned properties and those on private property affecting the health, welfare and safety of the public; and

(d) Provide for a Master Street Tree Plan for the regulation and protection of trees on city owned properties; and

(e) Provide for the regulation of trees, hedges and bushes on private property so as not to create a safety hazard or to otherwise interfere with the public's use of public or private property.

(Ord. 3754, passed 7-6-99)

### **§ 915.02 DEFINITIONS.**

For the purpose of interpreting and for enforcing the provision of this chapter, the following terms, phrases, words and their derivatives shall have the meanings given herein unless the context clearly indicates or requires a different meaning. Words used in the singular include the plural.

(a) **BUILDING AREA.** The area of construction for a building including a distance

of ten feet (10') around the perimeter of the building's foundation.

(b) **BUFFER.** The side, rear or perimeter set-back area established to separate different uses and/or zoning districts through the use of natural vegetation, trees, and landscaped mounds.

(c) **CALIPER.** The diameter in inches of trees measured at the height of six inches (6") above the ground for trees of four inches (4") in diameter and under, and measured twelve inches (12") above the ground for trees over four inches (4") in trunk diameter.

(d) **CITY ARBORIST.** An employee or consultant of the city who is a landscape architect, trained and qualified as a tree specialist.

(e) **CLEARING.** Cutting and/or removal of trees and vegetation from a site prior to construction or otherwise.

(f) **COMMISSION.** The City of Brecksville Planning Commission.

(g) **CONIFER.** A tree with needle leaves and woody cone fruit.

(h) **DECIDUOUS.** A tree which sheds leaves in winter or fall.

(i) **DIAMETER AT BREAST HEIGHT (D.B.H.)** The diameter in inches of a tree measured four and one-half feet (4½) above the existing grade.

(j) **DRIPLINE.** A vertical line extending from the outermost portion of tree branch tips down to the ground.

(k) **EVERGREEN.** Trees which maintain their leaves year round including broad leaf and conifer evergreens.

(l) **GRUBBING.** The removal of understory vegetation which does not include the removal of any trees with a D.B.H. of four inches (4") or greater.

(m) **INTERIOR LANDSCAPING.** The use of landscaping within the innermost boundaries of the landscape buffer zone and the perimeter parking setbacks.

(n) **MASTER STREET TREE PLAN.** The city's plan for street trees, within the city's right-of-way, that describes the type and recommended placement of these trees.

(o) **PERVIOUS SURFACE.** The area of land which allows for the natural passage of water and is not covered by buildings, paving, sidewalks or other man-made, impervious material.

(p) **ROW.** The city's street, treelawn, or other public right-of-way area.

(q) **TREE.** A self supporting woody plant usually having a single trunk, which has

the potential of a D.B.H. of at least two inches (2") and a height of thirteen feet (13) or more at maturity.

(r) **TREE PRESERVATION DRAWING.** A drawing at a scale of not less than 1" - 50' identifying and locating all existing trees which are six inches (6") or greater in D.B.H. within an area to be cleared, graded or otherwise developed, the trees proposed to be removed, the method of preservation and protection of the trees, and the proposed type, size and location of all replacement or new trees to be planted on the site.

(s) **TREE CLEARING PERMIT.** An official city authorization by the Building Department to commence or allow the clearing, cutting and/or removal of any tree six inches (6") or more in D.B.H. that would be otherwise prohibited under the provisions of this chapter.

(t) **TREE SAVINGS PLAN.** A plan for saving existing trees in new residential and commercial developments, which plan is required as part of the project's final approval process held before the Planning Commission.

(u) **TREE WARDEN.** The person appointed or designated by the Mayor who has the authority to control and supervise all trees, existing now or in the future, which are located upon any public place in the city and upon any private property in the city, when in his or her opinion, such trees pose a threat to the safety of any person or property.

(Ord. 3754, passed 7-6-99)

### **§ 915.03 APPLICABILITY.**

The regulations of this chapter shall apply to all lands located within the city except as specifically exempted herein.

(a) No land shall be cleared of trees or shall trees with a D.B.H. of six inches (6") or greater be cleared and/or removed without conformance to the provisions contained in this chapter.

(b) No building permit, grading plan, or erosion and sediment control permit shall be issued for the construction, alteration or addition to any building, or the grading or alteration of the land surface without conformance to the provisions contained in this chapter.

(c) All Development Plans and new construction shall comply with the requirements of this chapter.

(d) All single family subdivision and development shall comply with the requirements of this chapter.

(e) No tree with a D.B.H. of six inches (6") or greater shall be cleared or removed without a Tree Removal Permit issued by the Tree Warden/City Arborist unless otherwise provided in this chapter.

(f) No Tree Clearing Permit shall be issued for any parcel of land or development which requires a Subdivision Plan approval, until such time as the Final Subdivision Plans are approved by City Council.

(Ord. 3754, passed 7-6-99)

#### **§ 915.04 EXEMPTIONS.**

The following are exempt from the regulations of this chapter and no permission from the Tree Warden and/or City Arborist is required for the following:

(a) The removal of dead, diseased or damaged trees.

(b) The removal of trees necessary for the construction, operation and maintenance of drainage facilities, sanitary and storm sewers if the plans for such have been approved by the city.

(c) The removal of trees for construction of public roadways and improvements if the plans for such have been approved by the city.

(d) The removal of trees in time of an emergency or that pose an imminent danger to life or property.

(e) Removal of trees by an individual homeowner on their single family dwelling lot, excluding the treelawn area, after the lot is initially developed and an unconditional, permanent occupancy permit is granted.

(Ord. 3754, passed 7-6-99) Penalty, see § 915.99

#### **§ 915.05 TREE SAVINGS PLAN.**

All developments shall be designed to preserve healthy trees and woodland, especially trees providing natural buffering, specimen trees and trees with a D.B.H. of six inches (6") or greater. Buildings and parking areas shall be located so as to compliment the existing topography and preserve the natural amenities of the site.

A Tree Savings Plan shall be required for, and submitted with, final development plans

for all major subdivisions and developments requiring approval in accordance with Chapters 1121, 1193 and 1195 of the Codified Ordinances of the City of Brecksville. For residential subdivisions, the developer shall have the option of first preparing a plan which is limited to the area to be cleared and graded for the construction of the infrastructure. In the event the developer chooses this option, or in the event there is no approved Tree Savings Plan for a residential lot of record, a Tree Savings Plan shall be required for each individual lot prior to any clearing, grading or construction.

(a) Plan submission requirements applying to all Zoning Districts:

(1) Master grading and drainage topographic plan at a scale of not less than 1"= 50", which shows the street and ROW grades, finished floor house or building elevations, driveways and lot or subplot grading.

(2) Tree preservation drawing prepared at a scale of not less than 1"= 50", (The same scale as the master grading plan) and shall include the following:

A. The location, common name and size of all trees with a D.B.H. of six inches (6") or greater outside of street ROW and utility easements within the area to be cleared or graded.

B. The location and outline of all easements, proposed buildings, parking areas, streets, sidewalks, drainage ways, retention basins and underground facilities.

C. Location of all existing trees with D.B.H. of six inches (6") or greater which will remain on the site after construction. The Commission may require the replacement of any trees of six inches (6") D.B.H. or greater which are not preserved.

D. A specific list of all existing trees to be saved including their species and size and the details on how the trees will be marked, protected, and the area restricted during construction as detailed in § 915.04(c) of this chapter.

E. Limits of change in grade which will affect any trees and the methods proposed to protect those trees.

F. Locations of areas to remain undisturbed.

G. Location of all specimen trees or trees of eighteen inches (18") D.B.H. or greater. The proposed development's parking areas or the landscaped portions of the parking areas or other landscaped areas shall accommodate the preservation of these trees with islands adequate to protect the tree and root system unless otherwise approved for removal by the City Arborist.

(b) Additional plan requirements and guidelines pertaining to the development in



Residential Districts:

(1) Existing trees outside of the building area, driveways, street ROW, drainage ways and utility easements should be preserved, wherever possible, to provide desired shading and screening for the dwelling occupants and to provide perimeter buffers to surrounding lots.

(2) Storm and sanitary sewers should be located and elevations set in order to require a minimum of re-grading and tree removal.

(3) House elevations and street elevations shall be designed to minimize changing the existing natural grade of yards.

(4) Tree wells, aeration systems, retaining walls and other methods shall be utilized to preserve existing tree root systems in perimeter landscape areas.

(c) Tree protection. The following methods are to be implemented for any trees which have been required to be preserved on the development sites:

(1) All trees or groups of trees to be preserved shall be marked with a blue colored ribbon or paint strip prior to any clearing.

(2) Prior to any construction or grading, a protective barrier, fence, posts, and/or signs shall be placed around the trees to be preserved.

(3) Protection barriers against equipment and materials shall be located no closer than the tree dripline distance from the tree trunk.

(4) No soil, building material, equipment vehicles or chemicals shall be stored or placed in the protection area of the tree dripline.

(5) Surface grade shall not be changed more than six inches (6") within the protected area without the installation of aeration system, wells, or retaining walls as approved by the City Arborist.

(6) No wires, boards, nails, signs, fences or other devices shall be attached to any tree to be preserved.

(d) Plan Review. The City Arborist and City Engineer shall review and approve the Tree Savings Plan. They will identify any tree locations and species which might be saved and areas around trees which should not be disturbed or will require special treatment or restrictions. The City Arborist and City Engineer shall make their recommendations in letter form to the Planning Commission which may be adopted as part of the subdivision or development final approval recommendation. In the case of undeveloped one-family residential lots of record, the City Arborist and City Engineer shall review and approve the Tree Savings Plan without further

review by the Planning Commission. Plan review fees for new residential and commercial subdivisions and new commercial development shall be charged as provided in § 1101.04. Plan review fees for existing undeveloped one-family lots of record shall be charged as provided in § 1314.18

(e) Plan approval. The Tree Savings Plan shall be incorporated into the subdivision or development project review and approval by the Planning Commission. In the case of undeveloped residential lots of record, plan approval of the Tree Savings Plan shall be required from the Building Department, after receipt of the review and approval as provided in § 915.05(d) above, prior to a building permit being issued.

(Ord. 3754, passed 7-6-99; Am. Ord. 3764, passed 9-21-99) Penalty, see § 915.99

### **§ 915.06 TREE WARDEN.**

(a) *Position.* The Mayor is authorized to appoint a Tree Warden, subject to the approval by Council, whose duties shall be to inspect all public places of this city, determine whether any illegal trees have been planted, and notify residents as to the type of trees permitted on their streets under the Master Street Plan as recommended by the Planning Commission and adopted by Council.

(b) *Authority.* The Tree Warden is hereby granted, subject to the approval of the Mayor, the authority, control and supervision of all trees which exist now and which may exist in the future located on any public property within the city, and over all trees which exist on any private property when, in his or her opinion, such trees constitute a threat to the public's safety or property.

(c) *Trimming of trees.* The Tree Warden shall keep all trees located on any public property in the city trimmed so that the branches of such trees projecting over any public sidewalk, private driveway or into any public street beyond the curb line, shall not conflict with the safety of the public.

(d) *Interference with Tree Warden.*

(1) No person shall interfere with the Tree Warden or his or her assistants or agents while engaged in the duties prescribed in this chapter or the performance of any work ordered by the Tree Warden to be undertaken.

(2) The Tree Warden shall have the right to trim any tree existing on any public property in the city so as to insure the public safety or to preserve the function or beauty of such public property, and he or she shall further have the right to remove any such tree, or any part thereof, which is in an unsafe condition or which, by reason of its location or nature, is

injurious or detrimental to other public improvements in the city, or is infected with any injury, fungus, insect or other pest or disease which cannot otherwise be controlled.

(Ord. 3754, passed 7-6-99)

**§ 915.07 PRIVATE CARE OF TREES ON PUBLIC PROPERTY.**

(a) *Permission required to care for.* No person shall plant, remove, destroy, cut, prune, fertilize, mulch, treat, break, climb, injure or spray any tree existing on any public property in the city, or authorize or procure any person to do so, or remove or tamper with any device placed for the protection of any such tree, or attach any rope, wire, chain, sign or other device whatsoever either to the tree or to any device placed for the protection of the tree, or authorize or cause the same to be done, without having first obtained written permission from the Tree Warden.

(b) *Prohibited treatments.*

(1) No deleterious substance such as salt, brine, gasoline, oil, or any other substance deleterious to trees shall be placed in contact with the soil surrounding the roots of any tree upon any public place in the city in such manner so as to kill, injure, deface, destroy or affect the growth of such trees.

(2) No stone, concrete, brick or other impervious material or substance shall be placed in such a manner as may obstruct the free access of air and water to the roots of any tree upon any public property, including treelawn areas, located within this city, without first having obtained written permission from the Tree Warden. Unless otherwise provided herein, there shall be maintained at the base of the trunk of each tree at least nine (9) square feet of open ground for a tree with a D.B.H. of three inches (3"), and an additional one (1) square foot for each additional one inch (1") of diameter.

(c) *Care of trees during construction, protection required:* No person, firm or corporation responsible for the construction, erection, alteration or removal of any building or structure in this city shall permit any tree upon any public property in the vicinity of such operation to be injured, damaged, or defaced in connection with such operation. The person, firm or corporation shall also be responsible for the erection of a guard or other form of protection for the tree or trees and their root system prior to start of construction. The type of guard or other protection shall be approved by the Tree Warden.

(d) *Moving of trees.* All moving of trees within the city ROW or upon any public property in the city necessitated by the moving of any building or structure or any other private enterprise shall be done under the supervision of, and with the written permission of the Tree

Warden. The applicant, as a condition of obtaining such permission, shall deposit with the city such amount as the Tree Warden may determine to defray all of the cost of moving and/or replacing such tree(s), including any administrative costs.

(Ord. 3754, passed 7-6-99) Penalty, see § 915.99

### **§ 915.08 MASTER STREET TREE PLAN.**

The city hereby adopts a separate comprehensive plan and program for trees planted in the city's rights-of-way. This plan encompasses the city's philosophy on trees, tree specifications, tree selection by street, placement and planting instructions. The city's street tree program shall be under the authority, control and supervision of the City Arborist. Copies of the Master Street Tree Plan shall be kept on file in the Building Department and open for public inspection.

(a) *Tree planting fee required.* Any person, firm or corporation who is the owner or lessee of land upon which any house or other building is to be constructed within the corporation limits of the city shall, at the time of issuance of the main structures permit, pay a non-refundable fee in the amount of \$275.00 per tree based upon one (1) tree being required for each fifty feet (50') of lot frontage. This payment of fee shall be made to the Building Commissioner at the time of payment for other building permits.

(b) In the event any person, firm or corporation who is the owner or lessee of land upon which any house or other building is already constructed within the corporation limits of the city, desires to plant a tree within the tree lawn area contiguous to their property, that person, firm or corporation shall comply with the provisions contained in this chapter as to the type, location and planting requirements for such tree.

(c) *Tree species.* The tree species for any new street shall comply with the Master Street Tree Plan. For new developments, and existing streets not specified in the Plan, the street tree type and plan shall be approved by the City Arborist. On streets with partial utility restrictions or other limitations, alternative or mixed species and varieties may be used as determined and approved by the City Arborist.

(d) *Tree location.* The City Arborist shall determine the specific location of all street trees. The City Arborist shall arrange for the planting of one (1) tree for each multiple of fifty (50) feet on frontage on the lot whereon a house or other building is to be constructed. A minimum of one (1) tree shall be planted for each house or other building regardless of the frontage of the lot. The City Arborist, to insure the uniformity of planting, may adjust the specific distance and location of street trees where lot dimensions preclude planting in multiples of fifty (50) feet or to avoid utilities or other limitations.

(e) *Tree Planting Fund.*

(1) For purposes of implementing the Master Street Tree Plan, there is hereby established a fund to be known as the "Tree Planting Fund".

(2) The Tree Planting Fund will be under the direction of the Building Department and shall have the following purposes:

A. To provide for the collection of fees, under a separate line item of such Fund, from the Building Department as provided in § 915.08(a) above.

B. To provide for expenditures from this Fund such forfeited amounts, as the same is provided herein, as may be authorized for the actual cost of purchasing, staking and planting trees in the city's ROW.

(f) *Street tree and planning specifications.* No tree shall be planted until such time as the City Arborist inspects the tree, the planting hole and the soil. The City Arborist shall also inspect the tree after planting to make certain it was properly planted and staked if staking was required. See the recommended tree and planting diagram at the end of this section.

(1) The tree shall be healthy, a minimum D.B.H. of two to two and one-half inches (2"-2½") and at least eight feet (8) in height. It shall have a straight trunk, single leader, and a well-pruned branch scaffolding structure.

(2) The hole for the tree planting shall be saucer shaped with a minimum radius of three to four feet (3'- 4'). Where the tree ball is to sit, the soil should be undisturbed or re-compacted if disturbed. The tree shall be placed perpendicular to the ground, so the trunk/root flares are level with the existing soil line, or no more than one to two inches (1" - 2") above the soil line. Any soil above the root flares is to be removed. Any twine, tape, string or other attachment shall be removed from the tree. The burlap and wire cage on the root ball are to be cut off a minimum of one third (1/3) of the way down the root ball. The hole is to be backfilled with premium topsoil or existing soil which is to be pulverized except that within a minimum one foot (1') radius around the root ball, a mixture of fifty percent (50%) soil and fifty percent (50%) of a well-composed, black humus product is to be used. One to two inches (1" - 2") of mulch is to be applied over the planting holes except that no mulch shall be applied within two inches (2") of the trunk base.

(3) The tree shall be supported by one (1) or two (2) stakes depending on its size and location, with a non-abrasive, loosely tied, tree attachment. All stakes and ties shall be removed after one (1) year from planting. Trees with smooth trunks are to be wrapped for the first season only, to protect against summer heat or winter cold. The homeowner, occupant or developer is responsible for liberally watering the tree.

(4) At the property owner's discretion and expense, tree(s) of a greater caliper

and/or a greater height than those specified herein, may be purchased and donated to the city through the City Arborist for planting in the property owner's treelawn area.

SAMPLE TREE AND PLANTING DIAGRAM

[artwork]

(Ord. 3754, passed 7-6-99; Am. Ord. 4383, passed 12-4-07) Penalty, see § 915.99

**§ 915.09 PERMITTED AND PROHIBITED TREES.**

All permitted trees and vegetation shall be common to Northeast Ohio or similar climates, in healthy condition and properly installed using accepted planting procedures. New trees shall be staked, watered and mulched.

(a) Permitted trees:

(1) Large trees shall be defined as those capable of reaching sixty feet (60') or greater at maturity. They shall have a planting area of pervious ground cover of a diameter of twenty feet (20') or more in width and not be located where there will be any overhead wiring. The following large trees are permitted as may be provided by the City Arborist:

- A. Sugar or Red Maple, and varieties
- B. Sweet Gum
- C. Red, Scarlet, Swamp White or Pin Oak
- D. Ginko (male)
- E. London Plane Tree
- F. Thornless Honeylocust
- G. Summit, Patmore, Autumn Applause or Cimarron Ash, and other Ash varieties
- H. Certain new Elm selections
- I. Dawn Redwood or Bald Cypress
- J. Zelkova Varieties
- K. Kentucky Coffee Tree

- L. Black Gum
- M. Freemanii Maples
- N. Shumard Oak, Shingle Oak
- O. Hungarian Oak
- P. English Oak
- Q. Ruby Red & Baumann Horsechestnut
- R. Hackberry "Prairie Pride"
- S. Katsura Tree
- T. Osage Orange (Fruitless)

(2) Medium sized trees shall be defined as those capable of reaching thirty-five to sixty feet (35' - 60') in height at maturity. They shall have a planting area of pervious ground cover of a diameter of at least fifteen feet (15') in width. The following medium sized trees are permitted as may be provided by the City Arborist:

- A. Red or Norway Maple
- B. Shingle Oak
- C. Little Leaf Linden and other Tilia Varieties
- D. Aristocrat or Cleveland select Calebry Pear
- E. Lace Bark Elm
- F. River Burch
- G. Hornbeam & varieties
- H. Hardy Rubber Tree
- I. Ash Varieties
- J. American Hophornbeam
- K. Amur Cork Tree
- L. Sargent Cherry
- M. Autumnalis Cherry

(3) Small trees shall be defined as those thirty-five feet (35') and under at maturity. They shall have a planting area of pervious ground cover of a diameter of at least ten feet (10'). The following small trees are permitted as may be provided by the City Arborist.

- A. Flowering Dogwood
- B. Hedge Maple and other Maple varieties
- C. Magnolias
- D. Golden Rain Tree
- E. Crab Apple Varieties
- F. Serviceberry
- G. Japanese Flowering Cherry
- H. Amur Maple
- I. Japanese Maple
- J. Sawtooth Oak
- K. Tree Lilac
- L. Catalpa "Nana"
- M. Hawthorne Varieties

(4) Conifer trees shall have a pervious area of a diameter of at least ten feet (10').

- A. White or Austrian Pine
- B. Concolor (White Fir)
- C. Limber or Korean Pine
- D. Black Hills, Serbian or Oriental Spruce
- E. Firs

(b) Additional tree varieties may be permitted as approved by the City Arborist.

(c) Prohibited trees.

- (1) Silver Maple



- (2) Honeylocust (Thorned)
- (3) Poplar varieties
- (4) Box Elder
- (5) Basswood American Linden
- (6) Willow varieties
- (7) Bradford Pear
- (8) Ginko (Female)
- (9) Osage Orange (Fruiting)

(Ord. 3754, passed 7-6-99) Penalty, see § 915.99

#### **§ 915.10 TREES, HEDGES AND BUSHES ON PRIVATE PROPERTY.**

(a) *Trimming of trees, hedges and bushes.* Trees, hedges and bushes located on private property having branches or vegetation projecting into public highways or public places shall, under the supervision of the Tree Warden, be kept trimmed by the owner or occupant of such private property to such an extent that the lowest branches of such trees shall not be less than nine feet (9') from the ground where they overhang any public sidewalk or less than twelve feet (12') from the ground where they overhang any public place or public highway.

(b) *Height of hedge fences.* Hedge fences may be permitted in accordance with the provisions contained in § 1151.39 of the Codified Ordinance of the City of Brecksville.

(c) *Trees and hedges to be within confines of private property.*

(1) Hedges, bushes and trees located on private property should be planted in such proximity to other private property lines so as to be completely within the confines of the lot or yard in which planted at maximum growth, with consideration for normal pruning and trimming, unless otherwise agreed upon by adjoining property owner(s).

(2) Property owners maintaining trees, shrubs, hedges and bushes heretofore planted on their property shall keep same fully trimmed so that overgrowth from such trees, shrubs, bushes and hedges does not extend onto adjoining properties, unless agreed to by the adjacent property owner. Upon written consent of an adjoining property owner, not desiring such overgrowth on his or her property, the Tree Warden or his or her duly authorized representative shall give at least ten-days notice to the property owner maintaining the overgrowing trees, shrubs, hedges and/or bushes, to remove such overgrowth, prior to the commencement of any

prosecution hereunder.

(Ord. 3754, passed 7-6-99) Penalty, see § 915.99

**§ 915.11 PROHIBITED PRACTICES.**

(a) *Topping of trees.* The complete topping of trees in the city ROW for overhead utility wires is discouraged. The trimming of these trees shall be done in such a manner that the tree will be allowed to grow around the wires. Any person, company or other legal entity, proposing to trim any trees located within the city's ROW, shall notify the Tree Warden in writing at least ten (10) days in advance of the proposed trimming, specifying the proposed location of the work to be done. The Tree Warden may issue specific instructions for the proposed tree trimming which instructions shall be adhered to.

(b) *Use of spike climbers.* The use of spike climbers on live trees on city property is prohibited unless specifically approved by the Tree Warden.

(c) *Trenching.* Open trenching in the root zone of a tree in the city's ROW or on public property is prohibited, except in cases where the trenching falls outside of the dripline radius. Exceptions may be allowed if, in the opinion of the Tree Warden, the impact of trenching on the tree will be negligible. Soil shall not be piled on the side of the trench. If trenches are not to be refilled within several days, the live roots are to be watered. All trenches shall be filled to original levels and completely tamped to original firmness.

(d) *Tree cutting permit required.* No cutting of any city trees, including those located within the treelawn area, or disturbance of the root system, shall be performed without securing a permit from the Tree Warden.

(e) *Tunneling.* Tunneling shall be required where trenching is prohibited within the tree dripline, or where there is insufficient space to bypass the dripline. Exceptions may be allowed if, in the opinion of the Tree Warden, the impact on the tree will be negligible. The beginning/ending distance of the tunneling from the face of the tree in any direction is determined by the diameter of the tree as specified in the following table.

<b>Where tree diameter at 4½ feet is:</b>	<b>Trenching will be replaced by tunneling at this minimum distance from the face of the tree in any direction:</b>
6 - 9 inches	5 feet

Brecksville, Ohio Code of Ordinances

10 - 14 inches	10 feet
15 - 19 inches	12 feet
Over 19 inches	15 feet
<b>Tunneling beneath tree, 1' - 2' on either side of trunk to avoid tap roots, is permitted, subject to review and approval of the Tree Warden, according to the following specifications:</b>	
<b>Tree Diameter</b>	<b>Depth of Tunnel</b>
9 inches or less	2.5 feet
10 - 14 inches	3.0 feet
15 - 19 inches	3.5 feet
20 inches or more	4.0 feet

(f) *Root cutting.* Tree roots damaged during construction shall be treated as follows: Any damaged roots one inch (1") or larger in diameter shall be sawed cleanly at the point closest to the tree side of the ditch. Clean cuts shall be made at all times. Root pruning is suggested along the length of the root line exposure. Wound dressing is not necessary or recommended.

(Ord. 3754, passed 7-6-99) Penalty, see § 915.99

**915.99 PENALTY.**

Whoever violates any provision of this chapter shall be fined not more than \$250.00 for each violation.

## **CHAPTER 1101: PLANNING COMMISSION**

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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:

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

(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:

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

(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 1186: SMALL WIND ENERGY SYSTEMS AND SOLAR ENERGY SYSTEMS**

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### 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 useable 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.**

(a) 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.

(b) 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)

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**CHAPTER 1197: BOARD OF ZONING APPEALS**

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Section

1197.01	Jurisdiction
1197.02	Appeal procedure; notice and hearing
1197.03 - 1197.11	[Reserved]
1197.10	Basis of granting use variances or exceptions
1197.11	Variances and exceptions relating to dimensions and setback
1197.12 - 1197.20	[Reserved]
1197.21	Public hearings on appeal
1197.22	Notice of proposed hearings
1197.23	Journal and rules of procedure
1197.24	Conditions for hearing appeal
1197.25	Appeal form information
1197.26	Petitioner to supply requested data
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1197.31	Building permit application time limitation

- 1197.32 - 1197.40 [Reserved]
- 1197.41 Compulsory testimony or evidence
- 1197.42 Meetings and voting; action subject to Council approval
- 1197.43 - 1197.50 [Reserved]
- 1197.51 Variance survey fee

***Cross-reference:***

*Building permit requirements; expiration, see Ch. 1313*

*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*

*Zoning amendments procedures, see Ch. 1199*

*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 subplot or sublots or any proposed subplot 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 subplot 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 NOTICE 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.

('64 Code, § 1197.42) (Ord. 2042, passed 12-20-72)

**§§ 1197.43 - 1197.50 [RESERVED].**

**§ 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)

## CHAPTER 1199: AMENDING PROCEDURES

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Section

1199.01	Intent
1199.02	Initiation of amendment; referral to Commission
1199.03	Notice of public hearing by Commission
1199.04	Quorum; time limit on Commission action
1199.05	Procedure at public hearing
1199.06	Action by Council
1199.07	Resubmittal of denied amendment
1199.08	Text and map record by Commission
1199.09	Effective date

***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)

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**CHAPTER 1311: REGISTERING CONTRACTORS**

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Section

1311.01	Application of provisions
1311.02	Registration required; type of work covered
1311.03	Application
1311.04	Application information
1311.05	Bond requirements
1311.06	Insurance
1311.07	Registration with Income Tax Administrator
1311.08	Registration expiration; application deposit
1311.09	Grounds for revocation, suspension or nonrenewal
1311.10	Revocation, suspension or nonrenewal; appeal to Council
1311.11	Exceptions to registration
1311.99	Penalty

*Statutory reference:*

*Power to license, see R.C. § 715.27*

**§ 1311.01 APPLICATION OF PROVISIONS.**

(a) All persons, firms, corporations, partnerships, or other legal entities, or any combination thereof, engaged in, or who directs, supervises, or has the responsibility for the means, method, and manner of any construction, improvement, renovation, repair or maintenance involving any of the following crafts, trades and businesses, shall be subject to the provisions of this chapter: plumbing; heating, ventilation and air conditioning; electrical; refrigeration; hydronics; carpentry; glazing; landscaping; ornamental iron work; sewer work; paving; grading; roofing; sheet metal work; tile setting; plastering; dry wall application; painting; decorating; brick masonry; stone masonry; cement work; excavating; and earth moving.

(b) No person, firm, partnership, corporation, association, or other legal entity, or any combination thereof shall undertake individually, or for another or to engage for compensation in any of the following kinds of work: plumbing; heating, ventilation and air conditioning; electrical; refrigeration; hydronics; carpentry; glazing; landscaping; ornamental iron work; sewer work; paving; grading; roofing; sheet metal work; tile setting; plastering; dry wall application; painting; decorating; brick masonry; stone masonry; cement work; excavating; and earth moving, within the municipality, until such person, firm, partnership, corporation, association or other legal entity, or any combination thereof, has been duly registered as provided in the chapter by the municipality to perform such work.

(Ord. 3911, passed 9-18-01; Am. Ord. 4370, passed 11-6-07) Penalty, see § 1311.99

**§ 1311.02 REGISTRATION REQUIRED; TYPE OF WORK COVERED.**

No person, firm, partnership, corporation, association, or other legal entity, or any combination thereof shall undertake individually, or for another, or to engage for compensation in any of the following kinds of work: carpentry; glazing; landscaping; ornamental iron work; sewer work; paving; grading; roofing; sheet metal work; tile setting; plastering; dry wall application; painting; decorating; brick masonry; stone masonry; cement work; excavating; earth moving; gutter and downspout; siding; window and door; insulation; plumbing; heating, ventilation and air conditioning; electrical; refrigeration; or hydronics, within the municipality, until such person, firm, partnership, corporation, association or other legal entity, or any combination thereof, has been duly registered as provided in the chapter by the municipality to perform such work.



(Ord. 3911, passed 9-18-01; Am. Ord. 4370, passed 11-6-07) Penalty, see § 1311.99

**§ 1311.03 APPLICATION.**

Applicants for registration to engage in or work at the trades, businesses, crafts or professions enumerated in this chapter shall make application for a registration at the City Building Department on forms prescribed by the Building Commissioner.

(Ord. 3911, passed 9-18-01; Am. Ord. 4370, passed 11-6-07)

**§ 1311.04 APPLICATION INFORMATION.**

Each application for registration shall contain the name, address and telephone number of the person, firm, partnership, corporation, association, or other legal entity applying for the registration, whether the applicant is a member of a firm, partnership, corporation, association or other legal entity or any combination thereof, and evidence showing that such applicant is duly authorized to act for such firm, partnership, corporation, association or other legal entity, or any combination thereof. In addition, the applicant for registration shall provide evidence that the applicant has a valid and unexpired license issued pursuant to R.C. Chapter 4740.

(Ord. 3911, passed 9-18-01; Am. Ord. 4370, passed 11-6-07)

**§ 1311.05 BOND REQUIREMENTS.**

No registration shall be issued by the city authorizing any person, firm, partnership, corporation, association, or other legal entity, or any combination thereof, to engage in the activities listed in § 1311.01, until a surety bond, with such terms and conditions to protect the city and its inhabitants from any damages and to guarantee the performance of the insured to be in compliance with the codified ordinances of the City of Brecksville, is filed with the Building Commissioner in the sum of \$25,000 payable to the city. Failure to maintain the surety bond provided for in this section shall result in the revocation of any registration to do business in the city. The form of such surety bond shall be approved by the Director of Law and be an original form. Continuation certificates will not be accepted.

(Ord. 3911, passed 9-18-01; Am. Ord. 4370, passed 11-6-07)

**§ 1311.06 INSURANCE.**

No registration shall be issued by the city authorizing any person, firm, partnership, corporation, association, or other legal entity, or any combination thereof, to engage in the activities listed in § 1311.01 until evidence of insurance is furnished to the city indicating that such registration applicant has insurance in at least the amounts as required under R.C. § 4740.06(B)(4) and the rules promulgated thereunder.

(Ord. 3911, passed 9-18-01; Am. Ord. 4370, passed 11-6-07) Penalty, see § 1311.99

**§ 1311.07 REGISTRATION WITH INCOME TAX ADMINISTRATOR.**

No registration shall be issued by the city authorizing any person, firm, partnership, corporation, association, or other legal entity, or any combination thereof, to engage in the activities listed in § 1311.01, until evidence is provided to the Building Commissioner that the applicant is registered with the Income Tax Administrator of the City of Brecksville.

(Ord. 3911, passed 9-18-01; Am. Ord. 4370, passed 11-6-07)

**§ 1311.08 REGISTRATION EXPIRATION; APPLICATION DEPOSIT.**

Such registration to be issued to such applicant or applicants shall expire on December 31, at midnight, of each year for which the same shall be issued. A \$75 nonrefundable deposit shall be made with each application regardless of whether or not such application for a registration is granted.

(Ord. 3911, passed 9-18-01; Am. Ord. 4370, passed 11-6-07)

**§ 1311.09 GROUNDS FOR REVOCATION, SUSPENSION OR NONRENEWAL.**

(a) Any applicant's registration may be suspended, revoked or not renewed for any one or more of the following reasons:

- (1) Faulty or defective workmanship;

- (2) Failure to timely complete the project;
  - (3) Misrepresentation of a material fact by the applicant in obtaining the applicant's registration;
  - (4) Noncompliance with the provisions of the Building Code of the municipality.
  - (5) Failure to maintain any required bonds and/or insurance as provided in this chapter; or
  - (6) For any other reason as determined by the Building Commissioner which constitutes good cause shown as provided in R. C. § 715.27.
- (Ord. 3911, passed 9-18-01; Am. Ord. 4370, passed 11-6-07)

**§ 1311.10 REVOCATION, SUSPENSION OR NONRENEWAL; APPEAL TO COUNCIL.**

(a) Notice in writing by the Building Commissioner shall be given to the applicant, at the address listed in his or her or its application, five or more days before any such registration may be revoked or the decision to not renew the applicant's registration becomes effective. The Building Commissioner is invested with the authority to revoke, suspend or not renew such registration when he or she has determined that one or more of the grounds, as specified in this chapter, for revocation, suspension or nonrenewal exist.

(b) An appeal from the findings and decision of the Building Commissioner shall be had before Council, provided the applicant files such appeal in writing with the Clerk of Council within ten (10) days of the date of the Building Commissioner's decision.

(c) If in the opinion of the Building Commissioner or of Council upon an appeal, that such registration should not be unconditionally renewed or re-instated, then the Building Commissioner or Council upon appeal, may require the applicant to post a surety bond, prior to the renewal or re-instatement of such registration, in an amount not to exceed \$50,000 and in a form prescribed by and in favor of the city, wherein the applicant guarantees to comply with the provisions of this chapter, and the other provisions contained in the codified ordinances of the city.

(d) Any appeal from the finding of the Building Commissioner as to the nonrenewal, suspension or the revocation of such registration shall be heard before Council, upon notice to the applicant, and the same shall be held and decided within thirty (30) days after the date the

appeal is filed with the Clerk of Council.

(Ord. 3911, passed 9-18-01; Am. Ord. 4370, passed 11-6-07)

**§ 1311.11 EXCEPTIONS TO REGISTRATION.**

(a) The chapter shall not apply to any individual person or member of his family who shall do any of the work herein listed upon his or her own premises, house or building, or the premises, house or building leased by him or her.

(b) This chapter shall not apply to officials or employees of the municipality engaged in municipal work, or to officials or employees of public utilities in such work for such public utilities as they are authorized by law to furnish or provide.

(Ord. 3911, passed 9-18-01; Am. Ord. 4370, passed 11-6-07)

**§ 1311.99 PENALTY.**

Any person violating any provision of this chapter shall, upon conviction, be found guilty of a misdemeanor and shall be fined not more than \$500, together with costs, imprisoned for not more than six (6) months, or both. Each day's violation shall constitute a separate offense.

(Ord. 3911, passed 9-18-01)

**CHAPTER 1314: SCHEDULE OF PERMIT FEES, DEPOSITS  
AND OTHER CHARGES**

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Section

1314.01	Permit required; conditions precedent to issuance
1314.02	Residential, commercial and industrial structures
1314.03	Moving of buildings, structures, large or heavy equipment or devices
1314.04	Swimming pools
1314.05	Radio receiving and transmitting masts or towers
1314.06	Roadway or right-of-way opening
1314.07	Buildings or equipment not specified

1314.08	Obstruction deposit; final grade deposit
1314.09	Electrical
1314.10	Plumbing
1314.11	Heating, air conditioning and refrigeration fees
1314.12	Signs
1314.13	Double fee for commencement prior to permit issuance
1314.14	Provisional permit; estimate and adjustment
1314.15	Charge for reinspection
1314.16	Sidewalk permit fee and deposit
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1314.18	Landscaping
1314.19	Sanitary sewer connection
1314.20	One percent assessment
1314.21	Application for building permit; deposit required
1314.22	Three percent assessment for non-residential properties
1314.23	Plan examination services

***Cross-reference:***

*Building permit expiration, see Ch. 1313*

*Swimming pool fee, see § 1323.09*

*Topographic survey fees, see § 1315.02*

*Water connection charges, see § 1325.04*

**§ 1314.01 PERMIT REQUIRED; CONDITIONS PRECEDENT TO ISSUANCE.**

A permit shall be required as provided in Chapter 1313 and for any improvement, installation, alteration, construction or erection mentioned in this chapter, and no such permit shall be issued except upon payment of the permit fees and charges and making the deposits and providing the security in accordance with this chapter.

('64 Code, § 1314.01) (Ord. 2154, passed 2-4-75; Am. Ord. 4113, passed 6-15-04)

**§ 1314.02 RESIDENTIAL, COMMERCIAL AND INDUSTRIAL STRUCTURES.**

- (a) One-family or two-family houses.

Base fee        \$250

Plus \$6 per 100 square feet of habitable floor area

Any change in plans after permit is issued, filing fee 50% of original fee.

(b) Private garages (attached or unattached), sheds (open or closed), barns, temporary (office, storage, tool) sheds or trailers (for use during construction periods), and all other buildings of similar nature.

Base fee        \$40

exclusive

of any

plumbing,

electric,

or heating

(1) Fence 30

(c) Commercial and industrial buildings, structures or projects or any additions thereto.

Base fee        \$300

Plus \$6 per 100 square feet

Plus architect plan examination fee

(1) Apartments, townhouses and attached condominiums.

Base fee        \$100/unit

Plus \$6 per 100 square feet

Plus architect plan examination fee

(2) New parking lots. Paving

*Square feet*

First 1,000     \$100

Each additional 1,000 \$3

- (3) Existing driveways/parking lots re-sealing and striping.

*Square feet*

First 1,000 \$60

Each additional 1,000 \$2

- (d) Elevators/escalators.

Base fee \$80

- (e) Power-operated dumbwaiter or conveyer.

Base fee \$80

- (f) Additions to any residential building or structure.

Base fee \$100

Plus \$3 per every 100 square feet or fraction thereof

- (g) Driveways and/or driveway apron.

Base fee \$40

- (h) Demolition or razing of buildings or structures.

Base fee - main building \$50

Plus \$400 cash bond refundable upon final inspection provided all utilities are properly capped and there is no damage to the city's roads or right-of-way.

Base fee - accessory structure \$30

- (i) Alterations, remodeling, structural repairs of any existing buildings or structures where no additional floor space is added and according to costs as estimated by the Building Commissioner.

Base fee \$50

Plus \$5 for every \$1,000 of market valuation, or fraction thereof, in excess of the first \$1,000

- (j) Waterproofing/drain tile replacement.

Base fee \$40

- (k) Erection of a foundation to receive an existing building or structure moved from

another location.

Base fee        \$100

Plus \$2 per 100 square feet

(1) Where no structural change is made and no new facilities of any type added, charge the minimum fees (building, electrical, plumbing, heating, and the like) applicable to the type and classification of the particular building or structure involved.

(2) Where a structural change is made and/or floor space added and where new facilities are added, charge the minimum fees as in division (k)(1) hereof, plus the regular fees that would be charged for the added floor space and new facilities.

All areas are calculated from plan dimensions using the outside measurements.

- (l) Fireplace - Base fee    \$40
- (m) Aluminum/vinyl siding - Base fee    \$40
- (n) Vacuum system - Base fee    \$30
- (o) Wood decks - Base fee        \$40
- (p) Hot tubs - Base fee        \$30

Plus any associated electrical/heating permit.

- (q) Retaining walls - 4' or  
less in height    \$40
- (r) Retaining walls in excess of  
4' in height        \$40  
Plus engineering review fees.
- (s) Children play equipment on  
residential property in excess  
of 5' in height    \$30
- (t) Change of grade        \$30  
Plus engineering review fees.



- (u) Window and/or door replacements \$30
- (v) Waterproofing/water control \$40
- (w) Security-Fire System \$40
- (x) Re-roofing \$40
- (y) Items unspecified above \$40

('64 Code, § 1314.02) (Ord. 2975, passed 8-2-88; Am. Ord. 4113, passed 6-15-04; Am. Ord. 4384, passed 12-4-07)

**§ 1314.03 MOVING OF BUILDINGS, STRUCTURES, EXCESSIVELY LARGE OR HEAVY EQUIPMENT OR DEVICES.**

- (a) For moving on any public street or any portion thereof:

(1) Where object moved is under ten (10) feet wide and not high enough to interfere with overhead wires, lights, tree limbs, and the like and moved on a standard truck or trailer at moderate speed with little or no interference to normal traffic and where the city must provide escort or supervision, as determined by the Building Commissioner.

Base fee \$100  
Plus escort service \$60 per hour per car  
Cash bond \$5,000

(2) Where object moved is over ten (10) feet wide and moved on a carry-all, truck or trailer at a continuous rate of speed and with a moderate interruption of normal traffic and with necessary city escort and/or supervision.

Base fee \$100  
Plus escort service \$60 per hour per car  
Cash bond \$5,000

(3) Where object moved is over ten (10) feet wide and moved on rollers where movement is intermittent and where the normal traffic is interrupted and with necessary city escort and supervision.

Base fee \$100

Plus escort service \$60 per hour per car

Cash bond \$5,000

(4) No permit for moving any object described in division (a)(1), (2) or (3) above shall be issued unless appropriate arrangements have first been made with the Chief of Police to provide a police escort and unless there has been paid to the Finance Director in addition to the permit fee the sum of \$60 per hour for each police cruiser providing such escort service. In the event the amount paid in advance for such cruiser service is insufficient to pay the entire charge therefor the mover shall pay any deficiency on demand.

(b) Moving without traversing any public street or any portion thereof:

Base fee \$50

(1) In addition to the above, at the discretion of the Building Commissioner, additional fees up to the amount of \$150 may be charged to cover extra supervision and inspections, according to the nature of the work and the time involved.

(2) All charges from public utilities involved, and occasioned by the moving, are to be paid by the owner or mover.

(3) The mover shall provide the Building Department with an adequate cash deposit to secure the payment of all the above obligations.

Cash deposit \$2,000

('64 Code, § 1314.03) (Ord. 2404, passed 12-5-78; Am. Ord. 2838, passed 8-19-86; Am. Ord. 4113, passed 6-15-04)

#### **§ 1314.04 SWIMMING POOLS.**

As provided in § 1323.09:

In ground \$75

Above ground \$50

Temporary (18" or greater) \$25

Plus plumbing, heaters, and electrical fees applicable.

('64 Code, § 1314.04) (Ord. 2154, passed 2-4-75; Am. Ord. 4113, passed 6-15-04; Am. Ord. 4384, passed 12-4-07)

**§ 1314.05 RADIO RECEIVING AND TRANSMITTING MASTS OR TOWERS.**

Maximum height forty (40) feet.

Base fee           \$75

Plus \$3 for every \$100, or fraction thereof, of valuation.

('64 Code, § 1314.05) (Ord. 2975, passed 8-2-88; Am. Ord. 4113, passed 6-15-04)

**§ 1314.06 ROADWAY OR RIGHT-OF-WAY OPENING.**

Wherever an opening or openings must be made in any part of the public or dedicated portion of a roadway or right-of-way, a permit must be secured and fees will be charged as per the following schedule:

(a) Where not necessary to cross the roadway or right-of-way from one (1) side to the other and one (1) opening or multiple openings for boring is made on one (1) side of the roadway or right-of-way:

\$75 per opening, but less than six (6).

However, if greater than six (6) openings, division (b)(3) below shall apply.

(b) Where line or lines to be installed must cross the roadway or right-of-way from one (1) side to the other with an opening made on both sides of the roadway or right-of-way and:

(1) Where crossing of roadway or right-of-way is made by either boring or driving under roadway or right-of-way           \$150 per crossing

(2) Where crossing of roadway or right-of-way is made by an open cut across the roadway or right-of-way   \$150 per crossing

(3) Where more than three (3) borings or open cut of the pavement across the roadway or right-of-way, or greater than six (6) openings on one (1) side of the roadway or right-of-way   \$500

(c) Deposit required upon application for permit.

(1) The following deposit is required to assure proper backfill, restoration of pavement, no damage to the city's roadway or right-of-way, and payment for the special services of the Engineer, the Law Director, the City Architect, the City Arborist, City Inspector, or any

other professional:

- A. For opening indicated in divisions (a) and (b)(1) above: \$500
- B. For opening indicated in division (b)(2) above: \$1,000
- C. For opening indicated in division (b)(3) above: \$2,000

(2) If, at any time prior to the issuance of a building permit or completion of the work authorized by the issuance of a building permit, the fund has a balance of less than fifty percent (50%), the Director of Finance shall request in writing that the applicant provide, within ten (10) days of such written request, additional funds to create a fund balance of not less than the original amount required.

(3) In the event the applicant fails to make the initial deposit as required in this section or fails to timely replenish this fund as required herein, the Building Commissioner shall not accept any additional documentation from the applicant, issue the applicant a building permit, or allow any work to continue in the event a building permit is issued.

('64 Code, § 1314.06) (Ord. 2975, passed 8-2-88; Am. Ord. 4113, passed 6-15-04; Am. Ord. 4674, passed 3-6-12)

#### **§ 1314.07 BUILDINGS OR EQUIPMENT NOT SPECIFIED.**

The fee for a permit to alter, construct, install or erect any building, structure or equipment, not specifically covered under this schedule of fees, shall be in accordance with a schedule of miscellaneous fees promulgated by the Building Commissioner and approved by the Safety Director. This miscellaneous fee schedule shall be posted in a prominent location in the Building Department so that it may be easily viewed by the public. In addition, a copy of such miscellaneous fee schedule shall be kept on file in the office of the Clerk of Council.

('64 Code, § 1314.07) (Ord. 2975, passed 8-2-88; Am. Ord. 3388, passed 11-1-94; Am. Ord. 4113, passed 6-15-04)

#### **§ 1314.08 OBSTRUCTION DEPOSIT; FINAL GRADE DEPOSIT.**

(a) To protect city property from damage, to insure the completion of all construction work, the removal of temporary offices, tool and/or storage sheds, and the satisfactory restoration of the property involved, and compliance with approved final grading plans, including approved landscape plans, a deposit is required, prior to issuance of a building permit,

on all new dwellings, industrial and commercial construction or any other construction deemed necessary by the Building Commissioner.

(1) On every new dwelling:

Residential cash deposit      \$1,500

Plus inspection fee      \$120

(2) For group buildings by one contractor for industrial and commercial construction or any other type of construction, the amount of cash deposit or bond shall be:

Deposit or bond      \$1,500

Plus inspection fee      \$120

The Building Commissioner may adjust the cash bond to a figure he deems adequate and all deposits shall be subject to increases if the nature of the work warrants, or if damage during construction exceeds the amount of deposit.

(b) When all construction work is completed, all temporary office, tool and/or storage sheds are removed and when the property involved has been restored to a reasonable state of orderliness and any approved landscaping has been finalized and the final grade established, then a final inspection shall be made, and when satisfactory, the Building Commissioner shall:

(1) Where no damage has been incurred and the final grade has been approved by the City Engineer: Authorize a full refund on any cash deposit.

(2) Where any damage has been incurred and has not been satisfactorily repaired by owner or contractor or in the event the approved final grade has not been adhered to: Authorize the refund of any cash deposit remaining after deducting an amount necessary to cover city costs for repair of all such damage and/or for the costs incurred for the re-grading of the property to adhere to the approved final grade.

('64 Code, § 1314.08) (Ord. 3054, passed 11-7-89; Am. Ord. 4113, passed 6-15-04)

### **§ 1314.09 ELECTRICAL.**

A fee shall be charged for each permit issued for any and all electrical installations, alterations or additions, as per the following schedule:

(a) *Residential.* One, two and three-family dwellings, condominiums, townhouses.

(1) New construction:

Base fee \$100 per unit

Plus \$3 per every 100 square feet or fraction thereof.

(2) Additions or alterations:

Base fee \$40

Plus \$3 per every 100 square feet or fraction thereof.

(3) Repairs or other:

Base fee \$50

(b) *Apartments.*

Base fee \$100

Plus \$50 per unit

(c) *Commercial, industrial and all others.*

(1) New construction:

Base fee \$200

(up to 20,000 square feet)

Plus \$2 per 100 square feet or fraction thereof over the first 20,000 square feet.

(2) Additions, alterations, repairs:

Base fee \$75

(up to 10,000 square feet)

Plus \$2 per 100 square feet or fraction thereof over the first 10,000 square feet.

(d) *X-ray machines, diathermy equipment, and the like, and similar equipment.*

Each unit at rate of: \$25

(e) *Security alarm systems.*

Base fee \$40

(f) Communication cabling and

low voltage wiring \$40

('64 Code, § 1314.09) (Ord. 2975, passed 8-2-88; Am. Ord. 4113, passed 6-15-04; Am. Ord. 4384, passed 12-4-07)

**§ 1314.10 PLUMBING.**

A fee shall be charged for each permit issued for any and all plumbing installations, alterations or additions, as per the following schedule:

(a) *Residential.* One, two and three-family dwellings.

(1) New construction:

Base fee \$125

Plus \$3 per every 100 square feet or fraction thereof.

(2) Additions or alterations:

Base fee \$40

Plus \$3 per every 100 square feet or fraction thereof.

(3) Repairs or other:

Base fee \$50

(4) Gas piping and/or outlets \$40

(b) *Apartments and condominiums.*

Per unit \$100

(c) *Hospitals and nursing homes.* If there is individual plumbing, the fee will be \$75 for each compartment facility. (A compartment is a bathroom group of plumbing fixtures contained in one bathroom). Plus \$10 per each plumbing trap fixture installed outside of any compartment.

(d) *Commercial, industrial and all others.*

(1) For every bathroom compartment facility the fee will be \$125 per compartment facility plus \$10 per each plumbing trap fixture installed outside of any compartment.

(2) Other addition, alteration or repair: base fee of \$75 plus \$10 per each plumbing trap fixture.

(e) *Sprinkling systems.*

Installation of fire  
suppression sprinkler  
system \$250

Plus plan examination fees.

Alteration to an existing  
sprinkler system \$75

Plus plan examination fees.

Installation of lawn  
sprinkler systems \$50

(f) Gas piping and/or outlets \$60 base fee  
plus \$.20  
per outlet

(g) *Storage tanks (other than water).*

*Capacity (gallons)*

Up to 1,000 \$20

1,001 to 3,000 \$40

3,001 to 10,000 \$80

Over 10,000 \$125

('64 Code, § 1314.10) (Ord. 2975, passed 8-2-88; Am. Ord. 4113, passed 6-15-04; Am. Ord. 4384, passed 12-4-07)

### **§ 1314.11 HEATING, AIR CONDITIONING AND REFRIGERATION FEES.**



Permit fees for heating and air conditioning installations shall be as follows:

- (a) For all heating and air conditioning installations necessary in a new single-family dwelling: \$100

Plus \$2 per every 100 square feet or fraction thereof.

- (b) For new multi-family, per dwelling unit: \$60

Plus \$2 per every 100 square feet or fraction thereof.

- (c) New commercial building: \$60

Plus \$2 per every 100 square feet or fraction thereof.

- (d) For new industrial building: \$75

Plus \$2 per every 100 square feet or fraction thereof.

Fees for any additions or alterations shall be as follows:

- (a) Single-family dwelling: \$100

- (b) Multi-family, per dwelling unit: \$60

Plus \$2 per every 100 square feet or fraction thereof.

- (c) Commercial buildings: \$60

Plus \$2 per every 100 square feet or fraction thereof.

- (d) Industrial buildings: \$75

Plus \$2 per every 100 square feet or fraction thereof.

Fees for any replacement shall be as follows (per unit).

- (a) For each automatic hot water heater: \$40

- (b) For each water cooling tower: \$40

- (c) For each power boiler (steam): \$60
- (d) For each warm air or hot water heating installation: \$50
- (e) Air conditioning:  
For each central type with duct  
work: \$50
- (f) For each self-contained air  
conditioner not involving  
duct work: \$50
- (g) For refrigeration unit based on quantity of refrigeration in system:  
Systems required to comply with OAC § 4104:8 - Pressure Piping Systems Code:

No charge

(Note: Those required to obtain a permit from the Pressure Piping Bureau are required to provide the Building Department with a copy of such permit and copies of reports of all inspections performed by the Ohio Pressure Piping Bureau relative to such permit.)

All others: \$75

- (h) For each direct dual unit heater,  
wall heater, space heater  
or ceiling suspended heater: \$30
- (i) For each conversion burner: \$40
- (j) Compactor: \$40
- (k) Heat pump: \$50

('64 Code, § 1314.11) (Ord. 2975, passed 8-2-88; Am. Ord. 4113, passed 6-15-04; Am. Ord. 4384, passed 12-4-07)

### **§ 1314.12 SIGNS.**

The following schedule of permit fees for the construction and erection of signs in all

zoning districts of the city is hereby established as follows:

- (a) Ground and wall signs \$20  
Plus \$0.50 per square feet  
Illuminated \$25  
Plus \$0.50 per square feet
- (b) Pole signs \$40  
Plus \$0.50 per square feet
- (c) Permanent project signs \$40
- (d) Bulletin board \$40
- (e) Temporary signs, including real estate signs, subdivision signs (residential),  
announcement signs (special events), and temporary development signs (business).  
Permit for one year \$40  
Renewal \$20

('64 Code, § 1314.12) (Ord. 2379, passed 9-5-78; Am. Ord. 4113, passed 6-15-04)

**§ 1314.13 DOUBLE FEE FOR COMMENCEMENT PRIOR TO PERMIT ISSUANCE.**

All permit fees, deposits and security are payable upon the issuing of any permit and before the commencement of any work. If any work is commenced prior to issuance of a permit and payment of fees, the regular fees applicable to the particular work shall be doubled.

('64 Code, § 1314.13) (Ord. 2154, passed 2-4-75; Am. Ord. 4113, passed 6-15-04))

**§ 1314.14 PROVISIONAL PERMIT; ESTIMATION AND ADJUSTMENT.**

If, for any reason, exact details for determination of permit fees cannot be furnished before commencement of any work, the Building Commissioner may issue a provisional permit by estimating the fees to be charged and allow work to proceed. When exact details of work involved is obtainable, the permittee shall furnish the same to the Building Commissioner and the fees will be adjusted accordingly. Such adjustment of fees becomes payable at once and must

be paid before final inspection is made and the building occupied.

('64 Code, § 1314.14) (Ord. 2154, passed 2-4-75; Am. Ord. 4113, passed 6-15-04))

#### **§ 1314.15 CHARGE FOR REINSPECTION.**

When an inspection is requested and made and the work is found to be either incomplete or inaccurate or not in conformity with the Building Code of the city or at variance with the information submitted in the application, a charge of \$30 shall be made for each reinspection found necessary.

('64 Code, § 1314.15) (Ord. 2404, passed 12-5-78; Am. Ord. 4113, passed 6-15-04))

#### **§ 1314.16 SIDEWALK PERMIT FEE AND DEPOSIT.**

A permit shall be required for the construction and installation of any sidewalk located within the public right-of-way. Such sidewalk shall be constructed and installed in accordance with grade and location as determined by the City Engineer and in accordance with construction standards as contained in Chapter 1119. A permit fee in the amount of \$40 shall be paid at the time of application for a permit. In addition, an engineering service deposit of \$200 shall be paid to offset engineering expenses for establishment of grade and location of sidewalks to be constructed. The City Engineer shall submit statements to the Finance Department for expenses involved for services rendered for each sidewalk deposit and, upon completion of construction of such sidewalk, any moneys remaining in such deposit account shall be refunded to the person who has made application for a permit.

('64 Code, § 1314.16) (Ord. 2186, passed 9-16-75; Am. Ord. 4113, passed 6-15-04))

#### **§ 1314.17 FIRE PERMIT AND INSPECTION FEES.**

(a) For all permits required by the Ohio Building Code for Fire Prevention, a nonrefundable fee in the amount of \$40 plus any plan examination fee shall be paid at the time of application for a permit. Such building permit fee may only be waived by the Fire Chief for any bona fide charitable or philanthropic organization.

(b) The person to whom a permit is issued shall post such permit in a prominent public place upon the subject premises.

('64 Code, § 1314.17) (Ord. 2975, passed 8-2-88; Am. Ord. 4113, passed 6-15-04))

**§ 1314.18 LANDSCAPING.**

New construction landscaping fee \$40

Plus a cash bond in the amount of \$250 for each new residential dwelling to insure that the finish grade is in accordance with the approved plan. Upon inspection and approval of the finished grade by the City Engineer, the cash bond will be refunded, less the city's costs for inspection and approval. If upon inspection, any deviations or deficiencies are discovered, the city may apply the cash bond to correct such deviations and/or deficiencies. Any balance remaining shall be refunded.

Tree Savings Plan review fee \$200

('64 Code, § 1314.18) (Ord. 2975, passed 8-2-88; Am. Ord. 3764, passed 9-21-99; Am. Ord. 4113, passed 6-15-04)

**§ 1314.19 SANITARY SEWER CONNECTION.**

Any new dwelling, building or structure required to be connected to the sanitary sewer system and/or treatment plant shall be charged a sanitary sewer tap-in fee of \$1,200

Any conversion from septic tank to sanitary sewer shall be charged a fee of \$30

Any repair to an existing sanitary sewer or storm sewer shall be charged a fee of \$100

('64 Code, § 1314.19) (Ord. 2975, passed 8-2-88; Am. Ord. 3274, passed 5-4-93; Am. Ord. 3406, passed 1-3-95; Am. Ord. 4113, passed 6-15-04)

**§ 1314.20 ONE PERCENT ASSESSMENT.**

(a) The Building Commissioner is authorized and directed to collect, on behalf of the Board of Building Standards of the state, an amount equal to one percent (1%) of all of the various plan review, building permit and inspection fees as related to the new Residential Code of Ohio. This assessment, as collected on behalf of the Board of Building Standards shall be in addition to the current fees charged for plan reviews, inspections and for the issuance of various

building permits.

(b) The Director of Finance is authorized and directed to remit any assessments received pursuant to division (a) hereof to the Board of Building Standards of the state on a monthly basis.

(c) The one percent (1%) assessment as provided for in division (a) hereof shall be collected by the Building Commissioner from and after May 27, 2007.

(Ord. 4308, passed 4-3-07)

**§ 1314.21 APPLICATION FOR BUILDING PERMIT; DEPOSIT REQUIRED.**

(a) When an applicant makes application for a building permit and the subject matter of the application requires the special services of the Engineer, the Law Director, the City Architect, the City Arborist, or any other professional, the applicant, upon such determination by the Building Commissioner, shall deposit the following sums:

(1) Five hundred dollars (\$500.00) for residential construction or other activities requiring professional review.

(2) Two thousand dollars (\$2,000.00) for commercial or industrial construction or other activities requiring professional review.

(b) All expenses incurred by the city shall be paid out of the funds as deposited by the applicant. The expenses incurred in connection with application reviews or any professional fees incurred during the work contemplated by such building permit, shall be approved for payment by the Building Commissioner or City Engineer and the Mayor.

(c) The Director of Finance shall deposit all funds received under this section into a fund in the name of the applicant depositing such money. All expenses incurred in connection with the applicant's building permit application or subsequent work if a permit is issued shall, upon proper authorization, be paid by the Director of Finance out of such fund.

(d) If, at any time prior to the issuance of the building permit or completion of the work authorized by the issuance of a building permit, the fund has a balance of less than one hundred dollars (\$100.00) for residential matters and five hundred dollars (\$500.00) for commercial and industrial matters, the Director of Finance shall request in writing that the applicant provide, within ten (10) days of such written request, additional funds to create a fund balance of not less than the original amount required.

(e) In the event the applicant fails to make the initial deposit as required in this

section or fails to timely replenish this fund as required herein, the Building Commissioner shall not accept any additional documentation from the applicant, issue the applicant a building permit, or allow any work to continue in the event a building permit is issued.

(f) The Building Commissioner, or his or her designee shall notify the Finance Director at such time when professional review is no longer necessary for the matter for which the deposit was made. The Finance Director, or his or her designee shall verify with all professional reviewers that they have submitted all of their invoices and that these invoices have been paid for that particular application. The Finance Director shall then promptly refund the balance of any funds remaining on deposit for that particular application to the person or entity who made such deposit with the city.

(Ord. 4407, passed 4-15-08)

#### **§ 1314.22 THREE PERCENT ASSESSMENT FOR NONRESIDENTIAL PROPERTIES.**

(a) The Building Commissioner is authorized and directed to collect, on behalf of the Board of Building Standards of the state, an amount equal to three percent (3%) of all the various plan review, building permit, and inspection fees as prescribed in the Building Code of the city for nonresidential property. This assessment, as collected on behalf of the Board of Building Standards, shall be in addition to the current fees charged for inspections and for the issuance of various building permits for nonresidential properties.

(b) The Director of Finance is authorized and directed to remit any assessments received pursuant to division (a) hereof to the Board of Building Standards of the state on a monthly basis.

(Ord. 4736, passed 12-4-12)

#### **§ 1314.23 PLAN EXAMINATION SERVICES.**

(a) The Building Commissioner is authorized and directed to collect plan examination and administration fees for residential and nonresidential plan submittals. This fee shall be in addition to the current fees charged for the issuance of various building permits for residential and nonresidential properties.

(1) The fee for plan examination services rendered for projects subject to the Residential Code of Ohio; One, Two or Three-family dwellings, alterations or additions \$75.00 per hour.

(2) The fee for plan examination services rendered for projects subject to the Ohio Building Code \$100.00 per hour.

(Ord. 5110, passed 10-17-17)

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## **CHAPTER 1315: TOPOGRAPHIC SURVEY**

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### Section

- 1315.01 Survey required; sample form incorporated
- 1315.02 Fees for engineering services; compliance
- 1315.03 Further study; fee
- 1315.04 Plan approval by Engineer
- 1315.05 Grade approval by Engineer
- 1315.06 Waiver of survey
- 1315.99 Penalty
- Appendix A: Checklist for Review of Sublot Topographic Plans
- Appendix B: Topographic Survey

### **§ 1315.01 SURVEY REQUIRED; SAMPLE FORM INCORPORATED.**

Each application for a building permit for the erection, construction, remodeling or alteration of, addition to or moving of any building shall be accompanied by a topographic survey unless a topographic survey already exists and is on file with the Building Department for the parcel in question or if this requirement is waived by the Building Commissioner as approved by the City Engineer. All required topographic surveys shall be in the form of the sample appended to this chapter and dated December 10, 1996, which topographic survey shall contain the information shown in such sample. A copy of the sample topographic survey shall be kept in the Building Department for public inspection.

('64 Code, § 1315.01) (Ord. 2719, passed 6-5-84; Am. Ord. 3546, passed 12-17-96; Am. Ord. 4569, passed 6-15-10) ) Penalty, see § 1315.99

### **§ 1315.02 FEES FOR ENGINEERING SERVICES; COMPLIANCE.**

Each applicant shall, upon making application for a building permit in connection with



which a topographic survey is required, shall pay to the Building Department, in addition to all other fees and deposits required, the following amounts for engineering services:

- (a) Four hundred dollars (\$400) for examination of the topographic survey, which examination shall be made prior to the commencement of any construction; and
- (b) Two hundred dollars (\$200) for each re-examination of the topographic survey; and
- (c) Four hundred dollars (\$400) for the examination of the footer elevation before the footers have been poured, and the examination of the front and side yard setback requirements; \$250 if a re-examination is required due to the location or elevation of the footers being found incorrect; and
- (d) Four hundred seventy-five dollars (\$475) for the examination of yard grades, swales and first floor elevations; \$200 for re-inspection if found faulty; and
- (e) Two hundred dollars (\$200) for final examination after installation of landscaping; and
- (f) Two hundred fifty dollars (\$250) if scheduled for any examination but not ready when field-checked.

Failure of the applicant or owner of the property to comply with or make necessary corrections to the grades in accordance with the topographic survey, as may be ordered by the Building Commissioner or City Engineer to conform the property to the approved topographic survey, shall constitute a violation of this section, the penalty for which violation is set forth in § 1315.99.

('64 Code, § 1315.02) (Ord. 2519, passed 12-2-80; Am. Ord. 3853, passed 12-19-00; Am. Ord. 4253, passed 5-2-06; Am. Ord. 4390, passed 12-18-07; Am. Ord. 5141, passed 12-19-17)  
Penalty, see § 1315.99

### **§ 1315.03 FURTHER STUDY; FEE.**

If, in the opinion of the Building Commissioner, further study is needed regarding soil conditions, subsurface water conditions, construction, and the like, the applicant shall pay to the Building Commissioner, in addition to all other fees and deposits required, the sum as computed by the number of hours spent by the engineer at the rates per hour as set forth in the engineer's current contract, and any other fees for outside services.

('64 Code, § 1315.03) Penalty, see § 1315.99

**§ 1315.04 PLAN APPROVAL BY ENGINEER.**

No building permit shall be issued to any applicant unless the topographic plan submitted by the applicant has first been approved by the City Engineer.

('64 Code, § 1315.04) (Ord. 2234, passed 7-6-76) Penalty, see § 1315.99

**§ 1315.05 GRADE APPROVAL BY ENGINEER.**

No construction, erection, addition to or moving of any building shall be permitted to proceed after the footers have been poured unless the City Engineer has approved the grade prior to backfill of any foundation.

('64 Code, § 1315.05) (Ord. 2234, passed 7-6-76) Penalty, see § 1315.99

**§ 1315.06 WAIVER OF SURVEY.**

In any case wherein an application is made for a building permit to remodel or make an addition to, or alter, an existing building which was built in conformity with the grade established by the proper municipal authority, the Building Commissioner is hereby authorized to waive the foregoing requirements of a topographic survey with respect to such application, if he shall determine that the remodeling, alteration or addition will be constructed in conformity with the grade theretofore established.

('64 Code, § 1315.06) (Ord. 2234, passed 7-6-76) Penalty, see § 1315.99

**§ 1315.99 PENALTY.**

Any person violating any provisions of this chapter shall, upon conviction, be found guilty of a misdemeanor and shall be fined not more than \$500, together with costs, imprisoned for not more than six months, or both fined and imprisoned. Each day's violation shall constitute a separate offense.

('64 Code, § 1315.99) (Ord. 2519, passed 12-2-80)

## **CHAPTER 1325: WATER MAINS AND CONNECTION CHARGES**

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Section

1325.01	Master Water Distribution Plan adopted
1325.02	Water connection permit required
1325.03	Master Plan; division into two zones
1325.04	Schedule of connection charges
1325.05	Establishment of two accounts; funds credited and use
1325.06	Account fund transfers

***Cross-reference:***

*Location of utilities, see § 1175.09*

*Nonconforming utilities, see § 1173.06*

*Water facilities in subdivisions, see § 1119.06*

### **§ 1325.01 MASTER WATER DISTRIBUTION PLAN ADOPTED.**

Council finds it necessary and in the public interest to adopt a master plan of water distribution mains for the purpose of providing adequate distribution of water throughout this municipality, and hereby approves and adopts the master plan of water distribution mains as shown on Exhibit "A" entitled "City of Brecksville Master Water Distribution Plan, July, 1966, prepared by The C.W. Courtney Engineering Co.," and approved by the Water Department of the City of Cleveland on August 2, 1966, which Exhibit "A" is incorporated herein by reference. All water distribution mains hereinafter constructed or installed in this municipality shall be in accordance with such plan.

('64 Code, § 1325.01) (Ord. 1555, passed 8-2-66)

### **§ 1325.02 WATER CONNECTION PERMIT REQUIRED.**

No person, firm or corporation, shall make any tap in or service connection to this municipality's water system without first obtaining a water connection permit from the Building

Commissioner, and no building permit shall hereafter be issued for any improvement in this municipality without a determination first having been made by the Building Commissioner of whether a water service connection will be made or is required in reference to such improvement. If it is determined by the Building Commissioner that such connection will be made or is required for such improvement, no building permit shall be issued therefor unless and until a water connection permit has been obtained as required by this chapter. No plat for any single-family residential subdivision shall hereafter be approved by Council or recorded until the owner of the lands to be developed, or developer thereof, or any other person interested therein, shall have obtained from the Building Commissioner a subdivision water connection permit.

('64 Code, § 1325.02) (Ord. 1556, passed 8-16-66) Penalty, see § 101.99

### **§ 1325.03 MASTER PLAN; DIVISION INTO TWO ZONES.**

For purposes of this chapter this municipality is hereby geographically divided into two separate zones, namely Zone 1 and Zone 2, as shown on the "City of Brecksville Master Distribution Plan, July, 1966," adopted and approved on August 2, 1966, by § 1325.01, a copy of which Master Water Distribution Plan is attached to this chapter, marked Annex "A," and incorporated herein by reference.

('64 Code, § 1325.03) (Ord. 1556, passed 8-16-66)

### **§ 1325.04 SCHEDULE OF CONNECTION CHARGES.**

(a) No water connection permit or subdivision water connection permit shall be issued except upon payment in advance to the Finance Director of a permit fee computed in accordance with the following schedule of water connection charges, which fee shall be payable in addition to any and all other charges of any kind made by the Water Department of the City of Cleveland for service connections or otherwise, and in addition to any and all assessments both general and special which may be levied or imposed upon any property or the owner thereof for installation, construction, reconstruction or relocation or use of any water or sewer line or water or sewer main:

Brecksville, Ohio Code of Ordinances

<b>SCHEDULE OF WATER CONNECTION CHARGES</b>					
<i>For single-family dwellings, single connections for industrial, commercial or institutional service:</i>					
<b>(Inches)</b>	<b>Charge</b>				
	<b>Zone 1 Maintenance and Repair</b>	<b>Zone 2 Maintenance and Repair</b>	<b>Plus</b>	<b>Debt Service</b>	<b>Total</b>
5/8	\$30	\$40	\$60		\$100
3/4	\$25	\$45	\$75		\$120
1	\$40	\$50	\$100		\$150
1-1½	\$60	\$70	\$200		\$270
2	\$90	\$100	\$350		\$450
3	\$170	\$180	\$750		\$930
4	\$170	\$180	\$1,250		\$1,430
Larger than 4	\$500	\$500	\$2,500		\$3,000

<b>For Multi-family Dwellings (regardless of size of water meter used)</b>					
<b>Suites (per Suite)</b>	<b>Zone 1</b>	<b>Zone 2</b>			<b>Total</b>
	<b>Maintenance and Repair</b>	<b>Maintenance and Repair</b>	<b>plus</b>	<b>Debt Service</b>	
Up to 20	\$10	\$10		\$40	\$50
21 to 70	\$8.50	\$8.50		\$35	\$43.50
71 to 100	\$7.50	\$7.50		\$30	\$37.50
Over 100	\$7	\$7		\$25	\$32

(b) For Single-family dwelling subdivisions and developments: The fee shall be in an amount equal to that shown for single-family dwelling connections of the size specified by the person making the application for the permit multiplied by the number of residential lots shown

on the subdivision plat approved by the Planning Commission. Where the amount specified above has been paid in reference to any single-family dwelling subdivision, water connection permits for the same size connections as paid for shall thereafter be issued for improvements on individual lots in such subdivision without payment of the water connection charge required by this chapter.

('64 Code, § 1325.04) (Ord. 1556, passed 8-16-66; Am. Ord. 2975, passed 8-2-88)

### **§ 1325.05 ESTABLISHMENT OF TWO ACCOUNTS; FUNDS CREDITED AND USE.**

(a) The Finance Director shall establish on the books of this municipality two separate accounts, one of which shall be designated as the "Water System Maintenance and Repair Fund," to which account shall be credited that portion of the water connection fees collected designated in the above schedule of water connection charges as "maintenance and repair." The funds credited to such account shall be used only to pay for repairing, maintenance, reconstructing, relocating, operating, engineering, enlargement and extension in this municipality of its water distribution system and all other costs and expenses incurred by this municipality in connection therewith, other than such costs and expenses as are incurred and paid for by the City of Cleveland under the then existing direct water service contract with this municipality for the supply of water into and through such water distribution system.

(b) The other of such accounts shall be designated as "Bond Retirement Fund" to which shall be credited that portion of the water connection fees collected designated in the above schedule of water connection fees as "debt service," which funds shall be used only for the payment of that portion of the principal and interest of the bonds of this municipality, issued to finance any enlargement or extension of the water distribution system of this municipality, as is not and could not be lawfully assessed solely against the property abutting and abounding on such improvement.

('64 Code, § 1325.05) (Ord. 1556, passed 8-16-66)

### **§ 1325.06 ACCOUNT FUND TRANSFERS.**

The Finance Director is authorized and directed, that when the amount in the Bond Retirement Fund is insufficient to pay that portion of the periodic principal and interest payments due on such bonds which was not assessed against the property abutting and abounding on such improvement, to borrow from the Maintenance and Repair Fund such amounts as may be necessary from time to time to pay such obligations. However, any amounts so borrowed shall be repaid to the Maintenance and Repair Fund as soon as and to the extent that funds in the Bond

Retirement Fund exceed the amounts necessary to service the aforescribed unassessed share of the periodic principal and interest payments as they become due.

('64 Code, § 1325.06) (Ord. 1556, passed 8-16-66)

## **CHAPTER 1327: DESIGN AND CONSTRUCTION REVIEW BOARD**

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### Section

1327.01	Establishment
1327.02	Alternate members
1327.03	Vacancies
1327.04	Removal
1327.05	Qualifications
1327.06	Rules of procedure
1327.07	Meetings
1327.08	Compensation
1327.09	Financial interest
1327.10	Purposes and jurisdiction
1327.11	Objections, public hearing, notice, review fee
1327.12	Board decision on building permit; Councilmanic review

### ***Cross-reference:***

*Building permit expiration, see Ch. 1313*

### **§ 1327.01 ESTABLISHMENT.**

(a) There is hereby established in the city a Design and Construction Review Board, hereinafter referred to as the Board, which shall consist of three regular members having the qualifications provided in § 1327.05 hereof, appointed by Council upon the recommendation of the Mayor, for the following terms:

One for a term expiring December 31, 1968

One for a term expiring December 31, 1969

One for a term expiring December 31, 1970

(b) As each of the above terms expires, subsequent appointments to the Board shall be for terms of three years each.

('64 Code, § 1327.01) (Ord. 1647, passed 11-21-67)

### **§ 1327.02 ALTERNATE MEMBERS.**

(a) There shall be appointed two alternate members, having the qualifications set forth in § 1327.05. Appointments for alternate members shall be made in the same manner as appointments of regular members but each such appointment shall be for three years.

(b) In the event of the absence for any reason or temporary disability of any regular member of the Board, one or more of the alternate members shall be designated by the Chairman of the Board to serve during such temporary absence or disability, so that the number of members present at any meeting shall in no event be less than two but no more than three.

(c) Each alternate member when he is serving in the place of a regular member of the Board shall have the same powers and perform the same duties as a regular member of the Board.

('64 Code, § 1327.02) (Ord. 1647, passed 11-21-67)

### **§ 1327.03 VACANCIES.**

In the event that any regular member of the Board or either of the two alternate members thereof shall resign or be removed or shall for any reason be unable to complete his full term of office, such vacancy shall be filled in the same manner as provided for original appointment. Each such appointee shall have the qualifications set forth in § 1327.05 and shall serve for the unexpired term of the member in whose place he is appointed.

('64 Code, § 1327.03) (Ord. 1647, passed 11-21-67)

### **§ 1327.04 REMOVAL.**

Any regular member or alternate member of the Board shall be subject to removal from the Board for causes and in the manner provided by the statutes of the state.



('64 Code, § 1327.04) (Ord. 1647, passed 11-21-67)

**§ 1327.05 QUALIFICATIONS.**

Each regular member and alternate member of the Board shall be either an architect or engineer duly registered and authorized to practice in the state, a real estate salesman or broker licensed in the state or a real estate appraiser. Each regular or alternate member of the Board must have been actively engaged in the practice of his profession in the state for a period of not less than five years prior to his appointment to the Board, and shall be and prior to such appointment shall have been a resident of the city for not less than two years. However, Council by majority vote thereof may waive the residence requirement. In so far as it is practicable, the Board shall consist of one architect, one engineer and one real estate salesman, broker or appraiser.

('64 Code, § 1327.05) (Ord. 1647, passed 11-21-67)

**§ 1327.06 RULES OF PROCEDURE.**

The Board is hereby vested with authority to exercise and perform all duties herein provided, including the power to make its own rules of procedure, with the following limitations:

- (a) The Board shall elect one of its members as Chairman and one of its members Vice-Chairman who shall act in the absence of the Chairman. The Chairman shall be responsible for the proper conduct of meetings, hearings and administration;
- (b) One member shall be appointed as Secretary and he will prepare and cause to be kept in the office of the Clerk of Council a complete record open to public inspection of all meetings of the Board and business transacted by it;
- (c) A quorum shall consist of two regular members or alternate members;
- (d) Decisions of the Board shall require an affirmative vote of two or more regular or alternate members.

('64 Code, § 1327.06) (Ord. 1647, passed 11-21-67)

**§ 1327.07 MEETINGS.**

The Board shall hold such meetings as may be provided for by its rules of procedure, all of which meetings shall be held in the Council Chambers.

('64 Code, § 1327.07) (Ord. 1647, passed 11-21-67)

#### **§ 1327.08 COMPENSATION.**

Each regular and alternate member shall serve without compensation.

('64 Code, § 1327.08) (Ord. 1647, passed 11-21-67)

#### **§ 1327.09 FINANCIAL INTEREST.**

No regular or alternate member of the Board shall participate in consideration of any matter in which he or any partner or professional associate is the author or in which he or they have any direct or indirect financial interest. Should any such occasion arise, the member having any such connection or interest in the matter to be considered shall refrain from participating therein and yield his place to an alternate member.

('64 Code, § 1327.09) (Ord. 1647, passed 11-21-67)

#### **§ 1327.10 PURPOSES AND JURISDICTION.**

(a) The purposes of the Board are to protect the value, appearance and use of real property in the municipality and to maintain a high character of community development and thereby protect the public health, welfare, safety and convenience.

(b) The Board shall have power to hear, review and determine objections made in the manner hereinafter provided to the issuance of any building permit to erect any new residential, industrial or commercial structure, or to move, alter, repair, add to or raze in whole or in part any such structure.

(c) In making its determination, the Board shall review all drawings, data, reports and objections and make such further investigations as it may deem appropriate. The Board shall apply the generally accepted engineering and architectural principles applicable to the design, use of materials, finished grade lines, drainage and orientation of all main and accessory buildings hereafter to be erected, moved, altered, repaired, added to or razed, in whole or in part. It shall also apply generally accepted principles of real property appraisal and shall take into

consideration the nature and extent of development of adjacent and neighboring property.

('64 Code, § 1327.10) (Ord. 1647, passed 11-21-67)

**§ 1327.11 OBJECTIONS, PUBLIC HEARING, NOTICE, REVIEW FEE.**

(a) Objections to the issuance of any building permit may be made only in writing filed with the Building Commissioner and may be made by any resident, group of residents, any executive or administrative officer or employee or body of the municipality, including the Planning Commission and Board of Zoning Appeals.

(b) All written objections, except those made by the city or any of its boards or commissions, shall be accompanied by a nonrefundable check payable to the city in the amount of \$50 to be credited to the General Fund for the purpose of defraying any expenses incurred by the Board in processing and reviewing the objection.

(c) The Board shall not determine any objections to issuance of a building permit unless and until a public hearing shall have been had thereon after notice given as hereinafter provided.

(d) The Building Commissioner shall give five days prior written notice of such hearing to the applicant for the permit, the Building Commissioner and all objectors and, in addition thereto, shall cause to be published not less than ten days preceding such hearing notice thereof in a newspaper of general circulation in the municipality or in any other publication selected by the Building Commissioner which is usually delivered to at least a majority of the residents of the municipality.

('64 Code, § 1327.11) (Ord. 2579, passed 4-20-82)

**§ 1327.12 BOARD DECISION ON BUILDING PERMIT; COUNCILMANIC REVIEW.**

The issuance of each building permit to which an objection has been filed shall be held in abeyance until the Board has reviewed and determined such objection. Immediately upon arriving at a decision in respect to any such objection, the Board shall notify the Building Commissioner of its decision. If any objection is sustained in whole or in part, the Building Commissioner shall refuse to issue such permit unless the applicant shall comply with the recommendations, if any, made by the Board as to action necessary to obviate the objection. If any objection is sustained in whole or in part by the Board, such action of the Board shall be subject to review and approval by Council before becoming effective. No building permit shall

be issued in any case wherein objections thereto have been filed unless the plans and specifications therefor have been first approved in writing by the Board and authorized by Council.

('64 Code, § 1327.12) (Ord. 2578, passed 4-20-82)

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## **CHAPTER 1347: INSPECTION OF RESIDENTIAL RENTAL STRUCTURES**

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### Section

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### **§ 1347.01 FINDINGS AND PURPOSE.**

It is hereby found and declared that there exist in the city single-family dwelling structures, two-family dwelling structures, multiple-family dwelling structures and apartment buildings wherein the dwelling unit or units are leased to others for habitation and which are, or may become in the future, substandard with respect to structure, equipment or maintenance; or further, that such conditions including but not limited to structural deterioration, lack of maintenance and appearance of the exterior of such structures, infestation, existence of fire hazards and unsanitary conditions constitute a menace to the peace, health, safety, welfare and reasonable comfort of the residents of the city. It is further found and declared that by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions; and that if the same are not curtailed and removed, such conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate same; and that by reason of timely regulation as herein contained, the growth of blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of rental single-family dwelling units, multiple-family dwelling units and apartment house uses and neighborhoods may be enhanced,

and the public peace, health, safety and welfare protected and improved.

(Ord. 4226, passed 12-20-05)

**§ 1347.02 DEFINITIONS.**

The following words and phrases shall have the following definitions for the purposes of this chapter:

**DWELLING.** A building, or portion thereof, designed or used exclusively for residential occupancy; including one-family dwellings, two-family dwellings, multiple-family dwellings, but not including hotels or motels, camp cars, trailers, or any other vehicle on or off wheels.

**DWELLING STRUCTURE.** A building or structure, or part thereof, used or designed or intended to be used for residential purposes.

**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.

**HOTEL or MOTEL.** An establishment that is open to transient guests for remuneration and for periods of time not exceeding thirty (30) days, as opposed to a boarding, rooming or lodging house.

**MULTIPLE DWELLING.** A building containing the following:

- (1) Three (3) or more dwelling units;
- (2) Two (2) or more dwelling units above the first or ground floor; or
- (3) One (1) or more dwelling units if the building also contains a use other than a dwelling use or an area designed for such other use.

The words **MULTIPLE DWELLING** and **APARTMENT BUILDING** are synonymous.

**OCCUPANT.** A person living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or a room.

**OPERATOR.** A person who has charge, care or control of a dwelling structure.

**OWNER.** The owner of the premises, including the holder of title thereto subject to contract of purchase, a vendee in possession, a mortgagee or receiver in possession, a lessee or joint lessees of the whole thereof, or an agent or any other person, firm, corporation or fiduciary

directly in control of the premises.

***RENTAL UNIT.***

(1) Any dwelling unit or rented room within a single-family dwelling, duplex and two-family dwelling, multi-family dwelling, and apartment building, where either of the following conditions exists:

A. Consideration in the form of money or other valuable consideration is being paid for occupying such rental units; or

B. A person other than the fee simple owner of the property or his or her family as defined in § 1113.07 of the Planning and Zoning Code is occupying such rental unit, whether or not such person is paying consideration.

(2) The term ***RENTAL UNIT*** does not include a room for rent in a hotel as defined in this section.

***RESIDENT AGENT.*** A person, corporation, or other legal entity which an owner of improved real property has retained to manage, maintain or otherwise be in control of any rental unit, dwelling structure, or apartment building contained on the improved real property.

***TWO-FAMILY DWELLING UNIT.*** A building consisting of two dwelling units, one above the other, side by side, or otherwise situated, having either a separate or combined entrance or entrances.

(Ord. 4226, passed 12-20-05)

**§ 1347.03 CERTIFICATE OF OCCUPANCY.**

(a) No person shall occupy, and no owner, operator or resident agent shall permit a person to occupy a rental unit unless the Building Commissioner has issued a certificate of occupancy for such rental unit which certificate has not expired, been revoked or otherwise become null and void.

(b) (1) Application for a certificate of occupancy shall be made separately for each rental unit by supplying necessary information to determine compliance with applicable laws, ordinances, rules and regulations for the existing use or occupancy or the intended use or occupancy on forms supplied by the Building Commissioner. Such information shall include, but need not be limited to, the following:

A. The name, address and telephone number of the owner of the

property;

B. The name, address and telephone number of the resident agent of the property if one is required by § 1347.05(c);

C. The address of the property and the number of rental units contained within the property;

D. The current name, address, business and/or home telephone number, of the persons who, since the last application, have been occupying each rental unit, and the address or other identification of the rental unit which they occupied;

E. The name, address and telephone number of the building superintendent, janitor or caretaker, or such other person responsible for maintenance of the building and grounds.

(2) The Building Commissioner shall issue a certificate of occupancy for a rental unit if, after an interior and exterior inspection, it is found to be in compliance or substantial compliance with the provisions of the of the Codified Ordinances of the city and all other laws, ordinances, rules and regulations applicable thereto.

(3) The certificate of occupancy shall not be valid beyond December 31 of the fifth calendar year subsequent to its issuance or upon the rental or re-rental of the rental unit which occurs at least two (2) but less than five (5) years after its issuance whichever event occurs first.

(4) The Building Commissioner may deny an application for a certificate of occupancy or revoke a certificate of occupancy if any false statement is made by the applicant in connection with the issuance of such certificate, or for noncompliance of a rental unit, dwelling structure, or apartment building or its use with the requirements of the Codified Ordinances of the city, or if the owner, operator, occupant or agent or person in charge of a rental unit, dwelling structure, or apartment building refuses to comply with any applicable provision of the Codified Ordinances of the city.

(c) (1) Every application for a certificate of occupancy or renewal thereof shall be accompanied by a nonrefundable fee of \$25.00.

(2) An application for renewal of a certificate of occupancy shall be submitted to the Building Commissioner no earlier than thirty (30) days prior to the expiration date of the certificate and no later than the expiration date.

(d) Nothing herein shall prevent, or be construed as preventing, more frequent inspections upon complaint or upon reasonable suspicion by the Building Commissioner that a violation of the city's Building, Housing, Health or Fire Codes exists upon the property.

(Ord. 4226, passed 12-20-05)

**§ 1347.04 FORMS, RULES AND REGULATIONS.**

The Building Commissioner is authorized and directed to promulgate such forms, rules and regulations as are necessary for the efficient administration of this chapter.

(Ord. 4226, passed 12-20-05)

**§ 1347.05 NOTICE OF VIOLATION; DESIGNATION OF RESIDENT AGENT; MAIL AND POSTING NOTICE.**

(a) Whenever the Building Commissioner, or his or her designee, finds any rental unit, dwelling structure, or apartment building, to be in violation of the provisions of this chapter or other provisions contained in the Codified Ordinances of the city, the Building Commissioner shall give or cause to be given or mailed to the owner, operator, resident agent or occupant of such rental unit, dwelling structure, or apartment building a written notice stating the violation therein. Such notice shall order the owner, operator, resident agent or occupant within a stated reasonable time, but not less than ten (10) days, except for emergencies as provided in this section, to repair, improve or demolish the rental unit, dwelling structure, or apartment building concerned. Such delivery or mailing shall be deemed legal service of notice.

(b) Whenever, in the opinion of the Building Commissioner, or his or her designee, the condition of the rental unit, dwelling structure, or apartment building, or part thereof, constitutes an immediate hazard to human life or health, he or she shall declare a case of emergency and shall order immediate vacation of the rental unit, dwelling structure, or apartment building, or part thereof. Such notice shall be served in the manner provided in division (a) of this section, but shall require immediate compliance.

(c) If the owner of any rental unit, dwelling structure, or apartment building is not a resident of Cuyahoga County, such owner shall designate and file with the Building Commissioner the name, address and telephone number of a resident agent who is a resident or has a place of business within Cuyahoga County for the purpose of receiving all notices of inspection, orders, or otherwise from the city relative to this chapter. Service of notice upon such resident agent shall be deemed to be notice upon the owner. Any such notice shall also be sent by certified mail to the last known address of the owner. Notice may also be posted in a conspicuous place on the rental unit, dwelling structure, or apartment building to which it relates. No person shall remove or deface such posted notice without the written permission of the



Building Commissioner.

(Ord. 4226, passed 12-20-05)

**§ 1347.06 RIGHT OF APPEAL.**

The owner, operator, or resident agent of any rental unit, dwelling structure, or apartment building shall have the right to appeal from any order of, or written notice issued by the Building Commissioner or his or her designee, as provided for in Chapter 1197 of the Codified Ordinances of the city. Except in cases of emergency as set forth in § 1347.05(b), filing of an appeal from any such notice shall suspend action on enforcement of such notice until the appeal is acted upon by the Board of Zoning Appeals.

(Ord. 4226, passed 12-20-05)

**§ 1347.07 COMPATIBILITY WITH STATE LAW AND REGULATIONS;  
SEVERABILITY.**

(a) Nothing herein is intended to conflict with any state law or regulation pertaining to multi-family or apartment buildings, including but not limited to provisions of the Ohio Building Code.

(b) If any provision of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the chapter shall not be invalidated.

(Ord. 4226, passed 12-20-05)

**§ 1347.99 PENALTY.**

Whoever violates any provisions contained in this chapter is guilty of a misdemeanor of the third degree upon conviction or pleading guilty for the first offense, and whoever violates any of the provisions contained in this chapter shall be deemed guilty of a misdemeanor of the second degree upon conviction or pleading guilty for the second offense, and whoever violates any of the provisions contained in this chapter shall be deemed guilty of a misdemeanor of the first degree upon conviction or pleading guilty for the third or subsequent offenses.

(Ord. 4226, passed 12-20-05)