

## **CHAPTER 1101 Interpretation and Purposes**

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### **1101.01 TITLE.**

This Zoning Code shall be known and may be cited as the "Zoning Code of the City of Sidney", except as referred to herein, where it shall be known as "this Zoning Code".

(Ord. A-2248. Passed 4-9-01.)

### **1101.02 PURPOSES.**

This Zoning Code is enacted for the general purpose of promoting the public health, safety, comfort and welfare of the residents of the City of Sidney; to protect the property rights of all individuals by assuring the compatibility of uses and practices within districts; to facilitate the provision of public utilities and public services; to lessen congestion on public streets, roads and highways; to provide for the administration and enforcement of this Zoning Code, including the provision of penalties for its violation; and for any other purpose provided in this Zoning Code or the Ohio Revised Code, or under common law rulings.

(Ord. A-2248. Passed 4-9-01.)

### **1101.03 INTERPRETATION AND APPLICATION; CONFLICTS OF LAWS.**

In their interpretation and application, the provisions of this Zoning Code shall be the minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity and general welfare. It is not intended by this Zoning Code to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance, or any rules, regulations or permits previously adopted or issued pursuant to law, relating to the use of buildings and land. However, where this Zoning Code imposes a greater restriction on the use of buildings or premises, or on the heights of buildings, or requires larger yards, courts or other open spaces, than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations or permits, the provisions of this Zoning Code shall prevail and control.

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1103**

### **Definitions**

#### **1103.01 DEFINITIONS GENERALLY.**

Certain words and phrases used in this Zoning Code are defined for the purpose thereof as follows. Words used in the present tense include the future. The singular number includes the plural, and the plural the singular. The word "lot" includes the word "plot". The word "occupied" includes the word "designed or intended to be occupied". The word "used" includes the words "arranged", "designed" or "intended to be used". The word "shall" is a mandatory requirement, the word "may" is a permissive requirement and the word "should" is a preferred requirement. (Ord. A-2248. Passed 4-9-01.)

#### **1103.02 ACCESSORY STRUCTURE AND USE.**

"Accessory structure and use" means a structure or use subordinate to another structure or use located on the same lot and serving a purpose customarily incidental to such other structure or use.

#### **1103.03 ALLEY.**

"Alley" means a public right-of-way less than twenty-one feet in width between property lines, which provides only secondary means of vehicular access to abutting property.

#### **1103.04 AIRPORT.**

"Airport" means an area of land or water that is used or intended to be used for the landing and takeoff of aircraft, and includes its buildings and facilities, if any.

#### **1103.041 ANTIQUE SHOP.**

"Antique Shop" means a building or structure used for the sale of antique furniture, furnishings, or similar items. (Ord. A-2419. Passed 1-24-05.)

#### **1103.05 BASEMENT.**

"Basement" means a story the floor of which is more than twelve inches but not more than one-half its clear height below the average level of the adjoining ground. A basement, when used as a dwelling, shall be counted as a half-story for purposes of height measurement and for purposes of minimum side yard determination.

#### **1103.06 BEGINNING OF CONSTRUCTION.**

"Beginning of construction" means the utilization of labor, equipment and materials for the purpose of erecting or altering a structure.

#### **1103.07 BLOCK.**

"Block" means a parcel of land bounded on all sides by a street or streets, railways or water routes.

**1103.08 BLOCK FRONTAGE.**

"Block frontage" means property having frontage on one side of a street and lying between the two nearest intersecting, intercepting or intercepting extended streets, or nearest intersecting or intercepting street and railroad right-of-way, waterway or other barrier.

**1103.09 BOARD.**

"Board" means the Board of Appeals.

**1103.10 BOARDING HOUSE.**

"Boarding house" means the lodging part of a building or part thereof where lodging and/or meals are provided for compensation for three or more persons who are not transients.

**1103.101 BOOKSTORE.**

"Bookstore" means a retail establishment which, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, and/or any other printed or electronically conveyed information or media, excluding any "adult establishment," "adult bookstore," "adult theater," "theater," or "studio theater.

(Ord. A-2419. Passed 1-24-05.)

**1103.11 BUILDING.**

"Building" means a structure having a continuous roof span, including the walls or columns enclosing or supporting the roof area. The enclosed or supporting walls are generally of a uniform architectural style but may contain interior separation walls.

**1103.12 BUILDING, FRONT LINE OF.**

"Front line of a building" means the line of that face of the building nearest the front lot line.

**1103.13 BUILDING, HEIGHT OF.**

"Height of a building" means the mean vertical distance from the established grade in front of the lot, or from the average natural grade at the building line, if higher, to the highest point in the coping of flat roofs, to the deck line of a mansard roof or to the mid-height of the highest gable or dormer in a pitched or hipped roof, or, if there are no gables or dormers, to the mid-height of a pitched or hipped roof.

**1103.14 BUILDING LINE AND BUILDING SETBACK LINE.**

"Building line" and "building setback line" mean the line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the right-of-way.

**1103.15 BUILDING PERMIT.**

"Building permit" means a building permit approved by the City Manager or his or her designee stating that a proposed improvement complies with the provisions of this Zoning Code.

**1103.16 BUILDING, PRINCIPAL.**

"Principal building" means a building in which is conducted the main or principal use of the lot on which such building is situated. Where a substantial part of the wall of an accessory building is a part of the wall of the principal building, or where an accessory building is attached to the main building in a substantial manner, as by a roof, such accessory building shall be counted as a part of the principal building.

**1103.161 BUS DEPOT.**

"Bus Depot" means an establishment engaged in furnishing mass passenger transportation over regular routes and on regular schedules. Also included in this definition are parking lots provided for the use of passengers or employees of the transit provider.

(Ord. A-2419. Passed 1-24-05.)

**1103.17 BUSINESS.**

"Business" means engaging in (1) the purchase, sale, barter or exchange of goods, wares, merchandise or services, (2) the maintenance or operation of offices, or (3) a recreational and amusement enterprise for profit.

**1103.18 CAMP, PUBLIC.**

"Public camp" means any lot designed to accommodate two or more camping parties, including cabins, tents, camping trailers or other camping outfits.

**1103.181 CATERING**

"Catering" means a business establishments engaged in providing food services for off-premises consumption with equipment and vehicles to transport meals and snacks to events and/or prepare food at an off-premises site.

(Ord. A-2642. Passed 5-24-10)

**1103.19 CELLAR.**

"Cellar" means a story the floor of which is more than one-half its clear height below the average level of the adjoining ground. A cellar when used as a dwelling shall be counted as a story for the purposes of height measurement.

**1103.20 CEMETERY.**

"Cemetery" means land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, mausoleums and mortuaries when operated in conjunction with and within the boundary of the cemetery.

**1103.21 CERTIFICATE OF OCCUPANCY.**

"Certificate of occupancy" means a certificate approved by the City Manager stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this Zoning Code.

**1103.22 CITY.**

"City" means the City of Sidney, Ohio.

**1103.23 CLUB.**

"Club" means buildings and facilities owned or operated by a person for a social, educational or recreational purpose, but not primarily for profit.

**1103.24 COMMERCIAL.**

See "Business."

**1103.25 COMMISSION.**

"Commission" means the City of Sidney Planning Commission.

**1103.251 COMMERCIAL LAUNDRY OR DRY CLEANING ESTABLISHMENT.**

“Commercial Laundry or Dry Cleaning Establishment” means an establishment engaged in actual laundering, dry cleaning, or dyeing services, other than those uses classified as consumer service, large or small. Typical uses include laundries, diaper services, linen supply services, and dry cleaners.

(Ord. A-2419. Passed 1-24-05.)

**1103.252 INDOOR COMMERCIAL RECREATION FACILITY.**

“Indoor commercial recreation facility” means an enterprise conducted within a building which receives a fee in return for the provision of some recreational activity or facility. Such activities and facilities include racquetball, tennis courts, gymnasiums, swimming pools, skating rinks, dance studios, climbing facilities, indoor driving ranges, batting cages, basketball courts, soccer fields, and similar activities and facilities. Such facilities may provide ancillary accessory uses, such as pro shops or snack bars.

(Ord. A-2515. Passed 5-29-07.)

**1103.26 COMPREHENSIVE PLAN.**

"Comprehensive Plan" means the 2003 Comprehensive Plan of the City of Sidney and any update or amendment thereto.

**1103.27 CONDITIONAL USE.**

"Conditional use" means a use that is permitted, but only by application to the Board in each specific instance, and after determination by the Board that all regulations and standards of this Zoning Code applying to the specific use in the particular location will be met, along with such additional conditions or safeguards as the Board may prescribe in the specific case and circumstances, in order to prevent harm or injury to adjacent uses and the neighborhood, and/or in order to improve the public health, safety, morals, convenience, order, prosperity and general welfare.

**1103.271 CORRECTIONAL FACILITY.**

“Correctional Facility” means a secured facility under the supervision of the judiciary, correctional departments of any local, state or federal governments, or any law enforcement agency in which persons are or may be lawfully held in custody after arrest or as a result of conviction of a crime.

(Ord. A-2419. Passed 1-24-05.)

**1103.28 COUNCIL.**

"Council" means the City Council of Sidney, Ohio, and may also be referred to as City Council.

**1103.29 COUNTY.**

"County" means Shelby County, Ohio.

**1103.30 CULTURAL FACILITY, PUBLIC.**

"Public cultural facility" means a building, open to the public, that is devoted to the cultural arts. This includes, but is not limited to, art galleries, museums, libraries and cultural exchange centers.

**1103.31 DAY CARE CENTER, COMMERCIAL.**

"Commercial day care center" means a school child day care center, child day care center, child day camp, or other non-residential child day care facility regulated by Chapter 5104 of the Ohio Revised Code.

**1103.32 DEPARTMENT STORE.**

"Department store" means a retail establishment offering three or more major categories of merchandise arranged in several departments.

**1103.33 DISTRICT.**

"District" means a section of the City for which uniform regulations governing the use, height, area, size and intensity of use of buildings and land, and open spaces about buildings, are herein established.

**1103.34 DISTRICT, BASE.**

"Base district" means the N-1, S-1, R-1, R-2, R-3, O-1, B-1, B-2, I-1, or I-2 district, as established by Chapter 1105 of the Zoning Code.

**1103.35 DISTRICT, OVERLAY.**

"Overlay district" means a district established by Chapter 1105 of the Zoning Code that is superimposed on one or more parts of a base district or districts, and that imposes additional or different requirements than those otherwise applicable for the base district.

**1103.36 DWELLING.**

"Dwelling" means a building, or portion thereof, used primarily as a place of abode for one or more human beings, but does not include hotels, motels, motor hotels, boarding or lodging houses, tents or, except when located in an authorized mobile home park, mobile homes.

**1103.37 DWELLING, MULTI-FAMILY.**

"Multi-family dwelling" means a building designed for or occupied by three or more families.

**1103.38 DWELLING, SINGLE-FAMILY.**

"Single-family dwelling" means a detached building designed for or occupied by one family exclusively.

**1103.39 DWELLING, TWO-FAMILY.**

"Two-family dwelling" means a detached building designed for or occupied by two families.

**1103.40 DWELLING UNIT.**

"Dwelling unit" means a dwelling or a portion of a dwelling used for one family for cooking, living and sleeping purposes.

**1103.41 EDUCATIONAL INSTITUTION.**

"Educational institution" means public or parochial pre-primary, primary, grade, high or preparatory school or academy, junior college or university, if public or founded or conducted by or under the sponsorship of a religious or charitable organization.

**1103.42 EMERGENCY SHELTER.**

"Emergency shelter" means a facility providing temporary emergency housing for one or more individuals who are otherwise homeless due to an urgent event such as a fire, natural disaster, incident of domestic violence or eviction, for a period not to exceed fourteen days.

**1103.43 ESSENTIAL SERVICES.**

"Essential services" means the erection, construction, alteration or maintenance by public utilities, municipal departments, commissions or common carriers of underground, surface or overhead gas, oil, electrical, steam or water transmission, distribution, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, emergency telephones, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith necessary for the furnishing of adequate service by such public utilities, municipal departments, commissions or common carriers for the public health, safety and general welfare, but does not include buildings or outdoor storage yards.

**1103.44 FAMILY.**

"Family" means:

- (a) One or more persons related by blood, marriage, adoption, or legal guardianship, including foster children, living together as a single housekeeping unit in a dwelling unit; or
- (b) A group of not more than four persons not related by blood, marriage, adoption, or legal guardianship living together as a single housekeeping unit in a dwelling unit; or
- (c) Two unrelated persons and their children living together as a single housekeeping unit in a dwelling unit.

**1103.45 FINANCIAL INSTITUTION.**

"Financial institution" means banks, including savings and loan associations, credit unions, loan and cash advance offices, drive-up tellers and automated teller machines.

**1103.451 FINISHING, CUSTOM: FURNITURE AND FIXTURES**

“Finishing, custom: furniture and fixtures” means painting, staining, sealing, or upholstering of furniture or fixtures normally found in or on a building, but does not include such activities for machinery, equipment, motor vehicles, or other such industrial processes.

(Ord. A-2642. Passed 5-24-10)

**1103.46 FLOOR AREA, GROUND.**

"Ground floor area" means the square foot area of a building or structure within its largest outside dimensions computed on a horizontal plane at the ground floor level exclusive of open porches, breezeways, terraces and garages.

**1103.47 FLOOR AREA, NET.**

"Net floor area" means the total area, computed on a horizontal plane, used for a particular business category, exclusive of entrances, hallways, stairs and other accessory areas used for ingress and egress.

**1103.471 FUNERAL HOME OR MORTUARY.**

“Funeral Home or Mortuary” means an establishment engaged in undertaking services, such as preparing the human dead for burial and in arranging and managing funerals.

(Ord. A-2419. Passed 1-24-05.)

**1103.472 FURNITURE STORE.**

“Furniture store” means a retail establishment that sells household, office or other furniture, furnishings or equipment.

(Ord. A-2419. Passed 1-24-05.)

**1103.48 GARAGE, PRIVATE.**

"Private garage" means an accessory building for storage only of motor vehicles owned or operated by the property owner or individuals residing on the premises. For purposes of this definition only one vehicle stored in a private garage may be a commercial vehicle, and not more than three-ton rated capacity.

**1103.49 GARAGE, PUBLIC.**

"Public garage" means any building or premises, except those defined herein as a private garage, used for the storage or care of motor vehicles, or where such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

**1103.50 GRADE, ESTABLISHED.**

"Established grade" means the elevation of the sidewalk opposite the center of the wall of the building or structure facing such walk. Where no sidewalk has been constructed, the City Manager or his designee shall establish such sidewalk level or its equivalent for the purposes of these regulations.

**1103.51 GROUP HOME.**

"Group home" means a residential facility that provides on-site supervision and support-based services for individuals convalescing, undergoing rehabilitation or counseling, or cannot otherwise care for themselves, where all medical and health-related services are provided off-site.

**1103.511 HELIPORT.**

"Heliport" means any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling, and emergency service facilities.

**1103.52 HOME OCCUPATION.**

"Home occupation" means:

- (a) An accessory use of a dwelling unit or private garage for gainful employment of an immediate family member occupying such property, involving the manufacture, provision or sale of goods and or services on the premises, provided that such use does not interfere with or change the character of the residential use or neighboring uses.
- (b) Permitted activity may involve the providing of goods or performing services..
- (c) Such use is characterized by the use of fixtures and equipment reasonably found in a residential dwelling.
- (d) Examples of permitted home occupation uses include, but are not limited to financial planning, dressmaking, flower arranging, interior design, tutoring, direct sale product distribution, real estate sales and brokering.

**1103.53 HOME OFFICE.**

"Home office" means:

- (a) An accessory use of a dwelling unit or private garage for gainful employment of an immediate family member occupying such property, that does not involve the manufacture or sale of goods on the premises.
- (b) Permitted activity is exclusive to performing services, which when completed, are delivered to the customer off the premises.
- (c) Such use is characterized by the use of fixtures and equipment reasonably found in a residential dwelling, and where such use does not generate additional traffic and does not interfere with or change the character of the residential use or neighboring uses.
- (d) Examples of permitted home office uses include, but are not limited to, accounting, telemarketing, computer programming, data processing, graphic design and electronic assembly.

**1103.54 HOSPITAL.**

"Hospital" means an institution licensed by the State Department of Health and providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities, such as laboratories, out-patient departments, training facilities, central service facilities and staff offices, which are an integral part of the facility, provided such institution is operated by or treatment is given under direct supervision of a licensed physician. Types of hospitals include general, mental, chronic disease and allied special hospitals, such as cardiac, contagious disease, maternity, orthopedic, cancer and similar health care institutions.

**1103.55 HOTEL.**

"Hotel" means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boarding or lodging house.

**1103.551 HOUSEHOLD PET.**

"Household pet" means animal or fowl, except livestock, ordinarily found inside the house, such as dogs, cats, canaries, parakeets, guinea pigs, hamsters, frogs, fish, insects and other species of animals normally sold in pet stores and kept for the company or pleasure of the owner. "Household pets" do not include the keeping of any animals for commercial purposes.

**1103.56 JUNK YARD.**

"Junk yard" means any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or assorted, including, but not limited to, used or salvaged base metals, their compounds or combinations, used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property, except animal matter, and used motor vehicles, machinery or equipment which is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

**1103.57 KENNEL.**

"Kennel" means any lot or premises on which four or more dogs, at least four months of age, are kept.

**1103.571 LIVESTOCK.**

"Livestock" means cattle, horses, mules, burros, sheep, swine, llamas and goats, regardless of use, and any animal, except dogs and cats, that are used for working purposes on a farm or ranch, and any animal which is raised for food or fiber production.

**1103.572 LANDSCAPING SERVICE AND RETAIL BUSINESS**

"Landscaping service and retail business" means the sale, placement and maintenance of plant materials, fences, walls, lighting, and other similar items, including outdoor storage of materials and equipment.

(Ord. A-2642. Passed 5-24-10)

**1103.58 LOADING AND UNLOADING BERTH.**

"Loading and unloading berth" means the off-street area required for receiving or distributing materials or merchandise by vehicles. In this Zoning Code this area is a twelve-foot by forty-five foot loading span with a fourteen-foot height clearance. However, if more than one berth is provided, the minimum dimensions are ten feet by forty-five feet with a fourteen-foot height clearance.

**1103.59 LOT.**

"Lot" means a parcel, tract or area of land occupied or intended to be occupied by a principal or conditional use and uses accessory thereto together with such open spaces as required by this Zoning Code and accessible by means of a street or place. A lot may be a single parcel separately described in a deed or plat which is recorded in the office of the Recorder of Shelby County, or it

may include parts of or a combination of such parcels when adjacent to one another and used as one. In determining lot area and boundary lines, no part thereof within the limits of a street or place shall be included.

**1103.60 LOT, CORNER.**

"Corner lot" means a lot abutting upon two or more streets at their intersection.

**1103.61 LOT COVERAGE.**

"Lot coverage" means the percentage of the lot area covered by buildings and structures as measured by the ground floor area.

**1103.62 LOT, DEPTH OF.**

"Depth of lot" means the mean horizontal distance between the front line and the rear line of the lot, measured in the general direction of the side lot lines.

**1103.63 LOT, GROUND LEVEL.**

"Ground level of lot" means, for buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street; for buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets; for buildings having no wall adjoining the street, the average level of the ground adjacent to the exterior walls of the building. Any wall approximately parallel to and not more than five feet from a street is to be considered as adjoining the street.

**1103.64 LOT, INTERIOR.**

"Interior lot" means a lot other than a corner lot or through lot.

**1103.65 LOT LINE, FRONT.**

"Front lot line" means, in the case of an interior lot, a line separating the lot from the street or place, and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street, except in cases where deed restrictions in effect specify another line as the front lot line.

**1103.66 LOT LINE, REAR.**

"Rear lot line" means a lot line which is opposite and most distant from the front lot line and, in case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front line.

**1103.67 LOT LINE, SIDE.**

"Side lot line" means any lot boundary not a front lot line or a rear lot line.

**1103.68 LOT, REVERSED INTERIOR.**

"Reversed interior lot" means an interior lot, the front line of which is formed by a street, which street also forms the side lot line of an abutting corner lot. The corner lot is considered abutting even though separated from the interior lot line by an alley.

**1103.69 LOT, THROUGH.**

"Through lot" means a lot having frontage on two streets at opposite ends of the lot and may also be known as a double frontage lot.

**1103.70 LOT, WIDTH OF.**

"Width of lot" means the distance between the side lot lines at the required front yard depth measured at right angles to the depth of the lot.

**1103.71 MANUFACTURED HOUSING.**

"Manufactured housing" means a factory-built, single-family structure that is manufactured under the authority of 42 U.S.C. 5401, the National Manufactured Home Construction and Safety Standards Act, is transportable in one or more sections, is built on a permanent chassis and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit, other than delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

**1103.711 MEDICAL, DENTAL, AND HEALTH-RELATED SERVICES.**

"Medical, Dental, and Health-Related Services" means a facility organized and operated for the primary purpose of providing health services for outpatient treatment and care. This use includes related service facilities operated in conjunction with the clinic.  
(Ord. A-2419. Passed 1-24-05.)

**1103.72 MOBILE HOME.**

"Mobile home" means a movable dwelling for occupancy on land made of one or more units, and having minimum width of ten feet, minimum area of four hundred square feet, and year-round living facilities for one family, including permanent provision for cooking, eating, sleeping, and sanitation.

**1103.73 MOBILE HOME PARK.**

"Mobile home park" means a lot which is used or offered as a location for two or more mobile homes, and within which a mobile home may be supported either by its wheels or by a foundation of any sort.

**1103.74 MODULAR HOUSING.**

"Modular housing" means an assembly of materials or products comprising all or part of a total residential structure that, when constructed, is self-sufficient and contains plumbing, wiring and heating at the point of manufacture, and which, when installed, constitutes a dwelling unit, except for necessary on-site preparations for its placement.

**1103.75 MOTEL.**

"Motel" means a building or group of detached buildings containing units having bedroom, bathroom and closet space and each unit having convenient access to a parking space for the use of the unit's occupants. The units, with the exception of the apartment of the manager or caretaker, are devoted to the use of automobile transients.

**1103.76 MOTOR VEHICLE BODY SHOP.**

"Motor vehicle body shop" means a building, lot, or portion of a lot used or intended to be used for the business of collision service, which shall include body, frame, or fender straightening or repair, painting and glass replacement. It also includes the reconditioning of motor vehicles, which shall include repainting, resculpturing, rust repair, steam cleaning, and undercoating.

**1103.77 MOTOR VEHICLE REPAIR GARAGE.**

"Motor vehicle repair garage" means a building, lot, or portion of a lot used or intended to be used for the business of general motor vehicle repair and service, including engine rebuilding, transmission work, or reconditioning of motor vehicles, but excludes motor vehicle body shops and junk yards.

**1103.78 MOTOR VEHICLE FULL SERVICE STATION.**

"Motor vehicle full service station" means a building, lot, or portion of a lot used or intended to be used for the retail dispensing of vehicle fuels, and including as an accessory use minor mechanical repair such as brake, exhaust and muffler work, and the dispensing of lubricants, tires, batteries, similar accessories, and convenience food items. The parking or storage of junk vehicles shall not be permitted.

**1103.79 MOTOR VEHICLE CUSTOMIZING SHOP.**

"Motor vehicle customizing shop" means a building, lot, or portion of a lot used or intended to be used for the customizing of motor vehicles that are in an operable, undamaged condition. The customizing work shall be intended to alter the appearance or enhance the protection or security of a motor vehicle to the particular specifications of the vehicle owner. Examples of automobile customizing include rust-proofing, sunroof and alarm installation, pin-striping and exterior detailing.

**1103.80 MOTOR VEHICLE SALES, RENTAL OR LEASE.**

"Motor vehicle sales, rental or lease" means a building, lot, or portion of a lot used or intended to be used for the display, sale, rent or lease of new or used motor vehicles in operable condition and where repair service is accessory to the sale, rental or lease.

**1103.81 MOTOR VEHICLE WASH FACILITY.**

"Motor vehicle wash facility" means a building, lot, or portion of a lot used or intended to be used exclusively for exterior washing and interior cleaning of motor vehicles.

**1103.82 MOTOR VEHICLE SELF SERVICE STATION/MINI MARKET.**

"Motor vehicle self service station/mini market" means a building, lot, or portion of a lot used or intended to be used for the retail dispensing of vehicular fuels, and may as an accessory use sell convenience food items, commercial products and lubricants, but not including any repair or storage of motor vehicles.

**1103.821 MUNICIPAL OR GOVERNMENTAL BUILDING.**

“Municipal or Governmental Building” means a facility for administrative activity conducted by a governmental entity. Typical uses include city hall, social security office, or special district headquarters.

(Ord. A-2419. Passed 1-24-05.)

**1103.83 NONCONFORMING USE.**

"Nonconforming use" means a building or use of land legally existing at the time of the adoption of this Zoning Code or any amendment thereto, and which does not conform with all of the regulations of the district in which such building or use of land is located.

**1103.84 NURSING HOME.**

"Nursing home" means a facility licensed by the State Board of Health, which:

- (a) Provides nursing services on a continuing basis;
- (b) Admits the majority of the occupants upon the advice of physicians as ill or infirm persons requiring nursing services;
- (c) Provides for licensed physicians' services or supervision; and
- (d) Maintains medical records.

Such facilities may also provide other and similar medical or health services. Examples of nursing homes that provide health services may include, if they comply with all the above criteria, convalescent homes, maternity homes, rest homes, hospice and similar facilities.

**1103.85 NURSING HOME CONVERSION.**

"Nursing home conversion" means a dwelling which is converted for the use of a nursing home and licensed by the State Board of Health.

**1103.86 OUTDOOR DISPLAY.**

“Outdoor display: means a commercial use of open land, in which retail goods, wares and merchandise permitted for sale on the premises are kept.

**1103.87 OUTDOOR STORAGE.**

A commercial use of open land, in which raw materials, wholesale goods and equipment used on or off the premises are kept for more than 72 hours.

(Ord. A-2419. Passed 1-24-05.)

**1103.88 PARKING LOT.**

"Parking lot" means a parcel of land devoted to unenclosed parking space for five or more motor vehicles.

**1103.89 PARKING FACILITY, COMMERCIAL.**

"Commercial parking facility" means an open or enclosed facility for temporary off-street parking of five or more motor vehicles, for profit, located on publicly or privately owned property. This use includes conditionally permitted parking lots in the B-2 and B-5 Districts and excludes private garages and private parking areas accessory to a principally permitted residential use.

**1103.90 PARKING SPACE.**

"Parking space" means a space, other than on a street or alley, designed for use or used for the temporary parking of a motor vehicle, and being not less than nine feet wide and eighteen feet long, exclusive of passageways.

**1103.901 PAWN SHOP.**

"Pawn Shop" means an establishment primarily engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker, and the sale of such property.  
(Ord. A-2419. Passed 1-24-05.)

**1103.91 PERSON.**

"Person" means a corporation, firm, partnership, association, cooperative organization or any other group acting as a unit, as well as a natural person.

**1103.92 PLACE.**

"Place" means an open, unoccupied space other than a street or alley, permanently reserved for use as the principal means of access to abutting property.

**1103.93 PLANNED BUSINESS CENTER.**

"Planned business center" means a development of land with business uses that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages.

**1103.94 PLANNED INDUSTRIAL CENTER.**

"Planned industrial center" means a development of land with industrial uses that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages.

**1103.941 PLANT NURSERY.**

"Plant Nursery" means any land used to raise trees, shrubs, flowers and other plants for sale or for transplanting.  
(Ord. A-2419. Passed 1-24-05.)

**1103.95 PLAT.**

"Plat" means a map or chart indicating the subdivision or resubdivision of land, intended to be filed for record.

**1103.951 POSTAL STATION.**

"Postal Station" means a facility that has distribution boxes (cluster boxes) and collection services for the general public, mail carriers, and retail services.  
(Ord. A-2419. Passed 1-24-05.)

**1103.952 PRINTING AND PHOTOCOPYING BUSINESS.**

"Printing and Photocopying Business" means an establishment engaged in retail photocopying, reproduction, photo developing or blueprinting services.  
(Ord. A-2419. Passed 1-24-05.)

**1103.953 PRINTING AND PUBLISHING.**

“Printing and Publishing” means the production of books, magazines, newspapers and other printed matter, as well as record pressing and publishing.  
(Ord. A-2419. Passed 1-24-05.)

**1103.96 PRIVATE BANQUET/RECEPTION FACILITY.**

"Private banquet/reception facility" means a building owned and operated by an individual for social or recreational events such as weddings, receptions or banquets, and where the owner and/or operator also maintains an on-site residence.

**1103.97 PRIVATE NONCOMMERCIAL RECREATION FACILITY OR DEVELOPMENT.**

"Private noncommercial recreation facility or development" means a facility or development that is not owned or operated by a governmental entity, but is owned or operated by a noncommercial interest. This use includes, but is not limited to, facilities and developments such as the YMCA, YWCA, Salvation Army, Boy Scouts, Girl Scouts and Boys Club.

**1103.98 PRIVATE SCHOOL.**

"Private school" means a private pre-primary, primary, grade, high or preparatory school or academy or day nursery.

**1103.99 PROFESSIONAL OFFICE.**

"Professional office" means a facility occupied by individuals requiring specialized knowledge and skills attained through completion of a recognized course of instruction, such as, but not limited to, attorneys, physicians, nurses, engineers, architects, planners, librarians, accountants, realtors and various physical, chemical and biological scientists.

**1103.991 PUBLIC OR COMMERCIAL LANDFILL.**

“Public or Commercial Landfill” means a disposal facility employing an engineered method of disposing of solid waste, including demolition and construction debris.

**1103.992 PUBLIC AND PRIVATE LIBRARY.**

“Public and Private Library” means a publicly/privately operated facility housing a collection of books, magazines, audio and video tapes, or other material for borrowing and use by the general public.

**1103.100 RELIGIOUS INSTITUTION.**

“Religious institution” means a permanently located church, cathedral, synagogue, temple, mosque, or other place dedicated to religious worship. As part of its functions it may include the following incidental and subordinate uses subject to applicable Federal, State and local regulations: offices, residences for clergy, religious instruction, educational institutions, private and special schools, day care centers, emergency shelters, and community and recreational activities.

**1103.101 RESIDENTIAL PLANNED UNIT DEVELOPMENT.**

"Residential planned unit development" means a unique concept of residential development consisting of a large scale project constructed by a single owner or a group of owners acting jointly. The development is planned as an entity and therefore is conducive to development and regulation as a total unit rather than as a mere aggregation of individual buildings on separate unrelated lots. Such development could involve a related group of uses and a more compact arrangement of individual and/or multi-family dwelling units grouped in or around common open space or recreation areas. These developments may also include some limited commercial uses, provided that these uses are functionally integrated into the development and that the character of the development conforms to the purposes and intent of Chapter 1144 and the Comprehensive Plan.

**1103.102 RESTAURANT, DRIVE-IN.**

"Drive-in restaurant" means an eating establishment where motor vehicles are parked and food that is ordered is delivered to the parked vehicle, either separately or in conjunction with an indoor sit-down dining area. Eating establishments that have drive-up, pick-up or carry-out windows shall not be considered as drive-in restaurants.

**1103.103 SATELLITE DISH ANTENNA SYSTEMS.**

"Satellite dish antenna systems" means dish-shaped antennas designed to receive microwave transmissions from satellites in Earth's orbit, primarily for television broadcast signals.

**1103.104 SELF-SERVICE STORAGE FACILITY.**

"Self-service storage facility" means a building consisting of small, individual, self-contained units that are leased or owned for the storage of business and household goods, but not used for warehousing purposes.

**1103.105 SITE PLAN.**

"Site plan" means a plan, drawn to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land. A site plan shall include a drawing, including a legal or site description, of real estate which shows the location and size of the following, both existing and proposed: all buildings, structures and yards; locations and dimensions of building lines and easements; widths and lengths of all entrances and exits to and from such real estate; and the locations of all adjacent or adjoining streets, service facilities, topography, drainage plan and other improvements, such as planting areas.

**1103.106 SPECIAL SCHOOL.**

"Special school" means any school which has as its primary purpose the instruction, care and rehabilitation of atypical, challenged or exceptional children or adults such that the usual statutory educational requirements expressly or impliedly do not apply.

**1103.107 STORY.**

"Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling next above it shall be the story.

**1103.108 STORY, HALF.**

"Half story" means that portion of a building under a sloping, gable, hip or gambrel roof, the wall plates on at least two opposite exterior walls of which are not more than three feet above the floor level of such half story.

**1103.109 STREET.**

"Street" means a public right-of-way, other than an alley, affording primary access by vehicles or pedestrians, or both, to abutting property.

**1103.110 STRUCTURAL ALTERATION.**

"Structural alteration" means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the exterior walls or the roof.

**1103.111 STRUCTURE.**

"Structure" means anything constructed or erected, the use of which requires more or less permanent location on the ground, or which is attached to something permanently located on the ground.

**1103.112 SWIMMING POOL, PRIVATE.**

"Private swimming pool" means a swimming pool used only by the owner of the pool and invitees as an accessory use at a private residence.

**1103.1121 TAVERN OR COCKTAIL LOUNGE.**

"Tavern or Cocktail Lounge" means a building where alcoholic beverages are sold for consumption on the premises, not including restaurants where the principal business is serving food.  
(Ord. A-2419. Passed 1-24-05.)

**1103.1122 THEATER, INDOOR.**

"Theater, Indoor" means an establishment engaged in the provision of cultural, entertainment, and other events to spectators as well as those involving social gatherings. Typical uses include theaters, and multiplex cinemas.  
(Ord. A-2419. Passed 1-24-05.)

**1103.113 TELEVISION AND RADIO ANTENNA SYSTEMS.**

"Television and radio antenna systems" mean antennas designed to transmit and/or receive television and/or radio transmissions.

**1103.114 TOURIST HOME.**

"Tourist home" means a dwelling in which overnight accommodations for not more than eight transient guests are offered for compensation, and is also known as a bed and breakfast.

**1103.115 TRADE OR BUSINESS SCHOOL.**

"Trade or business school" means:

- (a) A secretarial or business school or college that is neither publicly owned nor owned or conducted by or under the sponsorship of a religious, charitable or nonprofit organization; or
- (b) A school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering or hairdressing, drafting or industrial or technical arts.

**1103.1151 TRUCKING OR MOTOR FREIGHT TERMINAL.**

"Trucking or Motor Freight Terminal" means a building or area in which freight brought by motor trucks or rail is assembled and/or stored for routing in intrastate or interstate shipment by motor truck or rail.

(Ord. A-2419. Passed 1-24-05.)

**1103.1152 TRANSITIONAL SHELTER**

"Transitional shelter" means a facility providing extended shelter and supportive services for a period up to four months for homeless individuals / families with the goal of helping them live independently and transition into permanent housing.

(Ord. A-2642. Passed 5-24-10)

**1103.116 USE.**

"Use" means the employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

**1103.117 VARIANCE.**

"Variance" means a modification of the specific requirements of this Zoning Code granted by the Board in accordance with the terms of this Code for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and zoning district. Such modification shall not include authorizing a use not among the uses specified by this Zoning Code as permitted in the district in which such property is located.

**1103.118 VISION CLEARANCE ON CORNER LOTS.**

"Vision clearance on corner lots" means a triangular space at the street corner of a corner lot, free from any kind of obstruction to vision between the heights of three and twelve feet above the established street grade. The street grade is measured at the intersection of the center lines of the intersecting street pavements, and the triangular space is determined by a diagonal line connecting two points measured fifteen feet along each of the street property lines equidistant from the intersection of the property lines or the property lines extended, at the corner of the lot.

**1103.1181 WAREHOUSE.**

"Warehouse" means a structure or part of a structure, for storing goods, wares and merchandise, whether for the owner or for others, and whether the same being public or private warehouse.

(Ord. A-2419. Passed 1-24-05.)

**1103.1182 WHOLESALE BUSINESS OR MAIL ORDER HOUSE.**

“Wholesale Business or Mail Order House” means a business, the sale of whose products are for resale by the purchaser.

(Ord. A-2419. Passed 1-24-05.)

**1103.119 YARD.**

"Yard" means a space on the same lot with a principal building, open, unoccupied and unobstructed by structures, except as otherwise provided in this Zoning Code.

**1103.120 YARD, FRONT.**

"Front yard" means the horizontal space extending across the full width of a lot, measured at ninety degrees to the front lot line, between the principal building and the rear lot line.

**1103.121 YARD, REAR.**

"Rear yard" means the horizontal space extending across the full width of a lot, measured at ninety degrees to the rear lot line, between the principal building and the rear lot line.

**1103.122 YARD, SIDE.**

"Side yard" means the horizontal space between the front and rear yards, measured at ninety degrees to the side lot line, between the principal building and the adjacent side lot line.

**1103.123 ZONE.**

"Zone" means the same as "district". (Section 1103.33).

**1103.124 ZONE MAP.**

"Zone Map" means a map entitled "Sidney, Ohio, Zoning Map", dated 1996, and any amendments thereto.

**1103.125 CITY MANAGER OR HIS OR HER DESIGNEE.**

"City Manager or his or her designee" means the person designated to administer and enforce zoning regulations and related ordinances.

**1103.126 ZONING CODE.**

"Zoning Code" means Ordinance A-2248 passed April 9, 2001, as codified in Title One of Part Eleven - the Planning and Zoning Code of the Code of Ordinances of Sidney, Ohio.

**1103.127 ZONING PERMIT.**

"Zoning permit" means the document issued by the City Manager or his or her designee authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses.

**1103.128 MOTOR VEHICLE ACCESSORY - RETAIL.**

"Motor vehicle accessory - retail" means a building, lot, or portion of lot used or intended to be used in the business of retail sales of various motor vehicle vanity items that have nothing to do with the utility of the vehicle such as special rims, chrome accessories, spoilers, etc. Motor vehicle accessory - retail does not include the sale or service of motor vehicles or the sale or service of motor vehicle parts. Motor vehicle accessory - retail does not include motor vehicle

body shops, motor vehicle repair garage, motor vehicle service station, motor vehicle customizing shop, motor vehicle sales, rental or lease, motor vehicle wash facility or motor vehicle self-service station as defined by this code.

(Ord. A-2395. Passed 7-26-04.)

**CHAPTER 1105**  
**Districts Established; Zone Map; Vacated or Annexed Land**

- 1105.01 Establishment of districts.
- 1105.02 District boundaries; zone map.
- 1105.03 Procedure related to vacated or annexed areas.

**1105.01 ESTABLISHMENT OF DISTRICTS.**

For the purposes of this Zoning Code, the City is hereby divided into fourteen classes of districts, with the following names and designations.

<u>Name of District</u>	<u>Designation Hereinafter</u>
N-1 Non-Urban District .....	N-1
S-1 Suburban Residence District.....	S-1
R-1 Single-Family Residence District .....	R-1
R-2 Single and Two-Family Residence District .....	R-2
R-3 Multi-Family Residence District.....	R-3
O-1 Office District .....	O-1
B-1 Local Business District .....	B-1
B-2 Community Business District .....	B-2
B-5 Court Square Business District.....	B-5
I-1 Light Industrial District.....	I-1
I-2 General Industrial District.....	I-2
RPUD Residential Planned Unit Development Overlay District.....	RPUD
PBC Planned Business Center Overlay District.....	PBC
PIC Planned Industrial Center Overlay District.....	PIC

**1105.02 DISTRICT BOUNDARIES; ZONE MAP.**

The boundaries of these districts are hereby established as shown on a map entitled "Zone Map, Sidney, Ohio", as revised, dated 2005, which accompanies and is hereby incorporated into and made a part of this Zoning Code. Where uncertainty exists as to the exact boundaries of any district as shown on the Zone Map, the following rules shall apply:

- (a) Unless otherwise indicated, the district boundary lines are the center lines of streets, parkways, alleys or railroad rights of way, or such lines extended.
- (b) In subdivided areas or where a district boundary subdivides a lot, the exact location of the boundary shall be determined by use of the scale of the Zone Map.

(c) In the case of further uncertainty, the Board of Appeals shall interpret the intent of the Zone Map as to the location of the boundary in question.

(Ord. A-2248. Passed 4-9-01; Ord. A-2339. Passed 2-24-03; Ord. A-2418. Passed 1-24-05.)

**1105.03 PROCEDURE RELATING TO VACATED OR ANNEXED AREAS.**

Whenever any street, alley, public way, railroad right-of-way, waterway or other similar area is vacated by proper authority, the districts adjoining each side of such street, alley, public way, railroad right-of-way, waterway or similar area shall be extended automatically to the center of such vacation, and all area included in the vacation shall then and thenceforth be subject to all appropriate regulations of the extended districts. Township zoning regulations in effect for territory annexed to or consolidated with the City subsequent to the effective date of Ordinance A-2036, passed April 8, 1996, shall, upon the effective date of such annexation or consolidation, remain in force and effect for a period not to exceed nine months. The Planning Commission shall recommend to Council, within a period not to exceed six months from such date of annexation or consolidation, a zoning districting plan of such property in accordance with the provisions of Chapter 1153.

(Ord. A-2248. Passed 4-9-01.)

## **CHAPTER 1107**

### **Compliance Requirements and General Provisions**

- 1107.01 Conformance required.
- 1107.02 Effect of Code on existing buildings.
- 1107.03 Disposal of wastes and water supply; connections required.
- 1107.04 Building line established.
- 1107.05 General yard regulations.
- 1107.06 Projections into required yards.
- 1107.07 Requirements for corner lots.
- 1107.08 Accessory buildings in N, S and R Districts.
- 1107.09 Accessory uses in B-1 Districts.
- 1107.10 Vision clearance.
- 1107.11 Lot requirements for single- family dwellings.
- 1107.12 Height requirements.
- 1107.13 Existing conditional uses.
- 1107.14 Required areas and dimensions.
- 1107.15 Essential services.
- 1107.16 Extraction of minerals, oil or gas prohibited.
- 1107.17 Fences.
- 1107.18 Additional uses; Board determination.
- 1107.19 Flood hazard areas.
- 1107.20 Satellite dish antenna regulations.
- 1107.21 Radio and television antenna regulations.
- 1107.22 Buffer and transition between noncompatible uses.
- 1107.23 Allowance for business use extensions and adjoining I-2 Zone.
- 1107.24 Infringement on property lines.
- 1107.25 Development standards for service stations.
- 1107.26 Requirements for outdoor displays.

#### **1107.01 CONFORMANCE REQUIRED.**

Except as hereinafter specified, no land, building, structure or premises shall hereafter be used, and no building or part thereof, or other structure, shall be located, erected, moved, reconstructed, extended, enlarged or altered, except in conformity with the regulations herein specified for the district in which it is located. Such regulations include, but are not limited to, the following: the use of buildings, structures or land and their performance standards as defined herein in connection with such use; the height, size or dimensions of buildings or structures; the size or dimensions of lots, yards and other open spaces surrounding buildings; and the provision, location, size, improvement and operation of off-street parking, loading and unloading spaces. (Ord. A-2248. Passed 4-9-01.)

**1107.02 EFFECT OF CODE ON EXISTING BUILDINGS.**

Nothing contained in this Zoning Code shall require any change in the plans, construction, alteration or intended use of a building, the construction of which was actually begun and diligently prosecuted and had progressed to the point where the foundation was in and completed at the time of the passage of Ordinance A-83, passed June 22, 1953, and which entire structure was completed within one year of the passage of such ordinance.

(Ord. A-2248. Passed 4-9-01.)

**1107.03 DISPOSAL OF WASTES AND WATER SUPPLY; CONNECTIONS REQUIRED.**

- (a) The disposal of wastes discharged into public streams and sewage systems shall meet the requirements of the State of Ohio and the regulations promulgated thereunder. Plans and specifications for proposed sewage and industrial waste treatment and disposal facilities shall be submitted to and approval shall be obtained from the Ohio EPA.
- (b) Except in the N-1 District, no building for human occupancy shall be constructed or used unless it is connected to both the public sanitary sewer and the public water supply, unless the City Engineer determines that it is not economically feasible to connect such development to the City water and sewer systems in accordance with Sections 913.06 and 913.07 of the Streets and Public Services Code.

(Ord. A-2248. Passed 4-9-01.)

**1107.04 BUILDING LINE ESTABLISHED.**

Where twenty-five percent or more of the lots in a block frontage are occupied by buildings, the average setback of such buildings shall determine the location of the building line, except that this requirement shall not apply to business or service establishment uses in the B-2 District and except that in any S or R District such setback need not exceed forty feet in any case. Building lines or building setback lines established in a recorded subdivision shall establish the dimension of front yards in such subdivision.

(Ord. A-2248. Passed 4-9-01.)

**1107.05 GENERAL YARD REGULATIONS.**

- (a) Rear Yard. One-half of an alley abutting the rear of the lot may be included in the rear yard, but such alley space shall not be included for loading and unloading berths.
- (b) Front Yard. On through lots in any N, S or R District, a front yard is required on each street.
- (c) Tapered Yard. In any N, S or R District where a reversed interior lot abuts a corner lot or an alley separating such lots, an accessory building located on the rear lot line of a corner lot shall be set back from the side street as far as the dwelling on the reversed interior lot. For each foot that such accessory building is placed from the rear lot line toward the front lot line of the corner lot, the accessory building may be set four inches closer to the side street line, but in no case closer than five feet.
- (d) Side Yard. Side yard width may be varied where the side wall of the building is not parallel with the side lot line or is broken or otherwise irregular. In such case, the average width of the side yard shall not be less than the otherwise required least width. However, such side yard shall not be narrower at any point than one-half the otherwise required least width or narrower than three feet in any case.

- (e) Rear and Side Yards Reduced. Depth of a rear yard or width of each side yard for a one-family or two-family dwelling may be reduced by four inches and two inches, respectively, for each foot by which a lot at the time of passage of Ordinance A-83 (passed June 22, 1953) is less than 100 feet deep or less than fifty feet wide. However, no such side yard shall be less than three feet at any point, or, in the case of such a side yard along a side street lot line, less than five feet, and no such rear yard shall be less than ten feet. The width of one side yard may be reduced, when authorized by the Board of Appeals in the case of a one-family or two-family dwelling, to a width of not less than three feet, provided the sum of the widths of the two side yards is not less than the required minimum and the distance between the proposed dwelling and another dwelling, existing or proposed, on the adjacent lot is not less than the required minimum sum of the widths of the two side yards. Such reduction may be authorized only when the Board finds it warranted by the location of existing buildings or conducive to the desirable development of two or more lots.
- (f) Extension of Existing Structures. An existing structure that is located within the required rear or side yard may be expanded or extended, provided that there is not further encroachment into the required rear or side yards.
- (Ord. A-2248. Passed 4-9-01.)

#### **1107.06 PROJECTIONS INTO REQUIRED YARDS.**

- (a) Projections into a Required Front Yard. Steps, walks, terraces and open, unenclosed porches may project into a required front yard a distance not to exceed five feet, and may occupy no more than thirty percent of the width of the building. Architectural appurtenances such as cornices, canopies and eaves may project into a front yard not to exceed two feet.
- (b) Projections into Required Yards with Frontage on Corner Lots. Steps, walks, terraces and open, unenclosed porches may project into a required front yard with frontage on a corner lot along a public or private right-of-way a distance not to exceed five feet, and may occupy no more than thirty percent of the width of the building. Architectural appurtenances such as cornices, canopies and eaves may project into a required front yard not to exceed two feet.
- (c) Projections into a Required Side Yard. Architectural appurtenances such as cornices, canopies and eaves may project into a required side yard not to exceed two feet. Open and lattice-enclosed fire escapes or fireproof outside stairways may project into a required side yard not to exceed four feet.
- (d) Projections into a Required Rear Yard. Decks may project into a required rear yard not more than thirty-five percent of the required rear yard setback and not more than thirty percent of the width of the principal building it is attached to. Steps, walks, terraces and open, unenclosed porches may project into a rear yard a distance not to exceed five feet. Architectural appurtenances such as cornices, canopies and eaves may project into a required rear yard not to exceed two feet.
- (Ord. A-2248. Passed 4-9-01 and Ord. A-2419. Passed 1-24-05.)

#### **1107.07 REQUIREMENTS FOR CORNER LOTS.**

- (a) Area of Residential Corner Lots. The area of a corner lot within the N, S and R Districts shall be twenty percent (20%) greater than the minimum area required for an interior lot.

- (b) Front Yard Setbacks. On all corner lots, the principal building and its accessory structures shall be required to have the same setback distance from all public and private right-of-ways as required for the front yard in the district in which such structures are located.

(Ord. A-2248. Passed 4-9-01.)

**1107.08 ACCESSORY BUILDINGS IN N, S AND R DISTRICTS.**

- (a) No accessory buildings shall be located closer to a side or rear lot line than three feet in any N, S or R District, except that adequate distance shall be required for the opening and closing of doors between accessory buildings and the rear lot line. Swimming pools shall be located in accordance with Section 1323.02 of the Building Code.
- (b) A detached accessory building shall only be permitted in the rear yard. An accessory building connected by a breezeway or similar structure shall be permitted in the side or rear yard.
- (c) Accessory uses, such as public utility installations, walks, driveways, curbs, retaining walls, mail boxes, nameplates, lampposts, bird baths and structures of a similar nature, are permitted in any required front, side or rear yard. Trees, shrubs, flowers or plants shall be permitted in any required front, side or rear yard, except that vision clearance on corner lots shall be provided when required. Fences, latticework, screens, hedges or walls are considered accessory uses and are permitted in a required front, side or rear yard, subject to the provisions of Section 1107.17.
- (d) In any N, S or R District, no accessory building shall be used as a dwelling, except that the Board of Appeals may authorize such use only for the domestic employees of residents of the principal building.
- (e) In any N, S or R District, an accessory building may be erected detached from the principal building or may be connected therewith by a breezeway or similar structure not less than six feet in length. Accessory buildings shall be at least six feet from any dwelling situated on the same lot and shall not, in the aggregate, occupy more than thirty percent of the required rear yard.
- (f) In any N, S or R District, no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal building, except for a temporary building incident to construction of the principal building.
- (g) An accessory building or structure may exceed 1,000 square feet in total gross floor area as a conditional use with the following conditions:
  - (1) The total gross floor area of all accessory uses shall not exceed 1,250 square feet for lots of more than 21,780 square footage, but less than 43,560 square feet and 1,500 square feet for lots of 43,560 square feet or more.
  - (2) Any accessory structure or building exceeding 1,000 square feet is required to have the same rear and side yard setback distance from all property lines as required for the zoning district in which that structure is located.
  - (3) The total square footage of the accessory structure or building must not exceed 80% of the total ground floor area of the principal building.

(Ord. A-2248. Passed 4-9-01 and Ord. A-2419. Passed 1-24-05.)

**1107.09 ACCESSORY USES IN B-1 DISTRICTS.**

Accessory uses in the B-1 District are permitted in the required front yard on lots where a business is located.

(Ord. A-2248. Passed 4-9-01.)

**1107.10 VISION CLEARANCE.**

Vision clearance, as defined in Chapter 1103, is required on all corner lots at the street corner.

(Ord. A-2248. Passed 4-9-01.)

**1107.11 LOT REQUIREMENTS FOR SINGLE-FAMILY DWELLINGS.**

A single-family dwelling may be located on any lot in any district in which single-family dwellings are permitted, if the lot was a single parcel in single ownership or a single parcel included in a subdivision of record at the time of passage of this Zoning Code (Ordinance A-2248 passed April 9, 2001), even though the lot does not have the minimum lot area or minimum lot width specified for the district in which it is located, provided that yard spaces satisfy requirements stipulated for such district or as may be modified under Section 1107.05.

(Ord. A-2248. Passed 4-9-01.)

**1107.12 HEIGHT REQUIREMENTS.**

- (a) In the districts limiting height to twenty-five feet, a dwelling may be increased in height not to exceed thirty-five feet, provided the required side yards are increased an additional foot for each foot such structure exceeds twenty-five feet in height.
- (b) The building height requirements for places of public assembly in churches, schools and other public or semipublic buildings may be increased, provided that such places are located on the ground floor of such buildings and provided, further, that side and rear yards are increased one foot for each two feet of additional height above such height requirement.
- (c) In all districts, spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts and essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances, provided that such features shall not occupy more than twenty-five percent of the area of the lot and shall be at least fifty feet from every lot line not a street lot line.

(Ord. A-2248. Passed 4-9-01.)

**1107.13 EXISTING CONDITIONAL USES.**

An existing use which is listed herein as a conditional use, in a district in which such conditional use may be permitted, is a conforming use. Any expansion of such conditional use involving the enlargement of buildings, structures and land area devoted to such use shall be subject to the requirements and procedures described for such conditional use in this Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

**1107.14 REQUIRED AREAS AND DIMENSIONS.**

No lot, yard, court, parking area, floor area or other space shall be reduced in area or dimension so as to make the area or dimension less than the minimum required by this Zoning Code. No part of a yard, court, parking area, floor area or other space provided about or for any building or structure for the purpose of complying with the provisions of this Zoning Code shall be included

as part of a yard, court, floor area parking area or other space required under this Code for another building or structure.

(Ord. A-2248. Passed 4-9-01.)

**1107.15 ESSENTIAL SERVICES.**

Essential services, as defined in Section 1103.43, shall be permitted as authorized and regulated by law or other ordinances of the City, it being the intention hereof to except such installations from the application of this Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

**1107.16 EXTRACTION OF MINERALS, OIL OR GAS PROHIBITED.**

(a) Upon the effective date of Ordinance A-1130, passed April 19, 1976, through April 18, 1978, the extraction of minerals, oil or gas by any process is expressly prohibited within the corporate limits of the City, except that the extraction of gas will be permitted as a conditional use in an I-2 Heavy Industrial District.

(b) From and after April 19, 1978, the extraction of minerals, oil or gas by any process is expressly prohibited within the corporate limits of the City.

(Ord. A-2248. Passed 4-9-01.)

**1107.17 FENCES.**

(a) Fences, latticework, screens, hedges or walls not more than seven feet in height may be located in the required side or rear yard. Hedges, open fences or walls not more than forty-two inches in height may be located in any front yard. Private swimming pools shall be surrounded by a fence at least five feet high.

(b) In any I-1 or I-2 District, fence that are at least 80% open (such as chain link) may be installed with a height of seven feet on any property line or within any yard setback, except that vision clearance as defined by Section 1103.118 shall be maintained on all corner lots.

(c) A fence permit shall be obtained from the City Manager or his or her designee for the installation of all fences. A fence permit shall be required to change, alter or replace an existing fence.

(d) The fence installer or owner shall make application for the permit on forms provided by the City Manager or his or her designee.

(e) Plans shall accompany the application, which indicate the location and height of the proposed fence in relationship to property lines, existing buildings and structures.

(f) The fee schedule for fence permits shall be in accordance with Section 1309.11 of the Building Code.

(Ord. A-2248. Passed 4-9-01 and Ord. A-2419. Passed 1-24-05.)

**1107.18 ADDITIONAL USES; BOARD DETERMINATION.**

Uses other than those specifically mentioned in this Zoning Code as permitted uses in each of the districts may also be allowed therein, except for uses prohibited therein or which are permitted in another district; provided that, in the judgment of the Board as evidenced by resolution of record, such other uses are of similar character as those mentioned and will have no adverse influence or no more adverse influence on adjacent properties, the neighborhood or the community than the permitted uses specifically mentioned for the district.

(Ord. A-2248. Passed 4-9-01.)

**1107.19 FLOOD HAZARD AREAS.**

Areas of special flood hazard in the City have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study for the City of Sidney". Actual enforcement of the flood damage prevention regulations will be based upon specific site elevations and the cross section elevation data provided in the Flood Insurance Study for the City of Sidney. This Study, with accompanying Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, is on file in the City Manager's Office, 201 West Poplar Street, Sidney, Ohio. The flood damage prevention regulations in Chapter 1108 will be applied to areas identified as special flood hazard areas, in addition to the applicable zoning district regulations for the property involved.

(Ord. A-2248. Passed 4-9-01.)

**1107.20 SATELLITE DISH ANTENNA REGULATIONS.**

Satellite dish antennas shall be permitted as an accessory use in all zone districts, and are subject to requirements as follows:

- (a) Ground-mounted satellite dishes installed in residential districts shall be limited to rear yard areas of the rearward portion of the lot or parcel.
- (b) Setbacks for all satellite dish installations shall be a minimum of ten feet from any property lines, a minimum of fifteen feet from public rights of way and of a sufficient safe distance from all overhead and/or underground power lines as determined by the Building Inspector.
- (c) Roof-mounted satellite dishes shall be limited to a maximum diameter of six feet or less, and such installations shall be located on the rearward portion of the roof as viewed from the front yard. Roof installations shall be mounted in accordance with manufacturer's recommendations and be properly secured to prevent damage from wind and snow loads.
- (d) All satellite dish antennas shall be properly grounded and resistant to lightning strikes and shall meet all Electrical Code requirements.
- (e) All satellite dish antenna systems shall be noncorrosive and be designed, engineered and permanently installed to withstand wind and snow loads specified by the Ohio Basic Building Code.
- (f) The maximum diameter of any satellite dish shall be twelve feet.
- (g) The maximum overall height for ground-mounted satellite dish antenna systems shall be fifteen feet.
- (h) Placement of satellite dish antenna systems within any easement shall be prohibited.
- (i) A permit shall be required prior to installation of any satellite dish antenna system. Installation instructions, sketches, site plans or other documents shall be submitted in accordance with the Building Inspector's requirements, for the purpose of verification of each of the provisions of this section.

(Ord. A-2248. Passed 4-9-01.)

**1107.21 RADIO AND TELEVISION ANTENNA REGULATIONS.**

Radio and television antennas shall be permitted as an accessory use in all zone districts, and are subject to requirements as follows:

- (a) Ground-mounted antenna systems installed in residential districts shall be limited to side and rear yard areas except for guy wires and antenna elements.

- (b) Setbacks for all antenna system installations shall be a minimum of five feet from any property lines, a minimum of fifteen feet from public rights of way and of a sufficient safe distance from all overhead and or underground power lines as determined by the Building Inspector. Placement of antenna systems within an easement shall be prohibited.
  - (c) Roof-mounted antenna systems shall be located on the rearward portion of the roof as viewed from the front yard and shall be limited to a maximum height of fifteen feet above the highest roof peak. Roof installations shall be mounted in accordance with manufacturer's recommendations and be properly secured to prevent damage from wind and snow loads.
  - (d) Ground-mounted antenna systems in residential and commercial districts shall not exceed a maximum overall height of sixty feet. Maximum overall height for ground-mounted television antenna systems shall not exceed fifteen feet above the highest roof peak of the principal structure or sixty feet total, whichever is least. It is noted that amateur radio operators have specific and valid reasons for exceeding the height limits established in this section. The Board of Appeals should be sensitive in its review of amateur radio operator's height variance requests and should refer to Order PRB-1 of the Federal Communications Commission during such reviews.
  - (e) All antenna systems shall be properly grounded and resistant to lightning strikes and meet all Electrical Code requirements.
  - (f) All antenna systems shall be noncorrosive and designed, engineered and permanently installed to withstand wind and snow loads specified by the Ohio Basic Building Code.
  - (g) A permit shall be required prior to installation of any antenna system. Installation instructions, sketches, site plans or other documents shall be submitted in accordance with the Building Inspector's requirements, for the purpose of verification of each of the provisions of this section.
- (Ord. A-2248. Passed 4-9-01.)

**1107.22 BUFFER AND TRANSITION BETWEEN NONCOMPATIBLE USES.**

- (a) Any new development which occurs where property lines separate an industrial, business or office zoning district or use from a residential zoning district or use, shall be subject to the following.
- (b) All buffer and transition plans are subject to the review and approval of the Planning Commission.
  - (1) The buffer and transition area must be accomplished through the use of a six-foot high masonry wall (except in a front yard area, where the maximum height shall be three feet), an earthen berm singularly or in combination or a greenbelt area (where such area is at least 100 feet in depth). An alternate wall material may be permitted by the Planning Commission where all affected property owners mutually agree.
  - (2) All buffer and transition plans must provide for the installation of landscaping materials or use of existing landscaping to assist in the obscuring effect. The landscaping plan shall be subject to the review and approval of the Planning Commission, as an element of the buffer plan.
  - (3) The installation of the buffer and transition area must not interfere with existing stormwater drainage flow patterns or utilities which may be located within easement areas, unless suitable measures are undertaken to alleviate problems that might be caused by the installation of the buffer.

- (4) The buffer must commence on the lot line between the subject properties, unless precluded by insurmountable problems posed by the location of utilities or easements, on the property which is subject to development. If insurmountable conditions prohibit the commencement of the buffer and transition area on the property line, the commencement shall occur in an area as close as possible to the common lot line. The Planning Commission may permit the installation of the obscuring wall on the opposite side of an alley, street or right-of-way when mutually agreeable to the affected property owners.
  - (5) The City may require that suitable maintenance guarantees be provided for the continued maintenance of the buffer materials.
  - (6) In cases where the Planning Commission determines that a residential area is designated as a future industrial or commercial area, the Board of Appeals may temporarily waive the installation of the buffer for an initial period of up to twelve months. Granting further temporary waivers by the Board may be permitted, provided that the Planning Commission shall make a determination that the waiver will not be detrimental to the intent of this Zoning Code.
- (Ord. A-2248. Passed 4-9-01.)

### **1107.23 ALLOWANCE FOR BUSINESS USE EXTENSIONS INTO ADJOINING I-2 ZONE.**

Principal and accessory uses permitted in the B-2 District may extend on to adjoining property within the I-2 District, subject to requirements as follows:

- (a) All property within the development shall be under common ownership at the time such extension is made.
- (b) Gross floor area for all buildings and structures in the development shall exceed 200,000 square feet.
- (c) All principal and accessory uses within the development shall conform to height, lot area, frontage, and yard requirements for the zone in which such uses are located.
- (d) Any B-2 District use extended shall be classified as a legal, conforming use in the industrial zone in which it is located.

(Ord. A-2248. Passed 4-9-01.)

### **1107.24 INFRINGEMENT ON PROPERTY LINES.**

- (a) No proposed freestanding building, structure, facility, or sign shall infringe on an existing property line.
- (b) A replat/vacation plat shall be required in accordance with Section 1161.05(a)(2) of the Subdivision Regulations to prevent such infringement.
- (c) These regulations shall not preclude the lawful extension of an existing building, structure, facility, or sign.

(Ord. A-2248. Passed 4-9-01.)

### **1107.25 DEVELOPMENT STANDARDS FOR SERVICE STATIONS.**

- (a) Setbacks for Dispensing Pumps. No gasoline or petroleum dispensing pump shall be located within fifteen feet of a public right-of-way, or within twenty-five feet of any residential zoning district, except where such pump is located within an enclosed building.

- (b) Setback of Canopies. Canopies may be erected over service station pump islands provided that no canopy shall be closer than ten feet to the public right-of-way and provided that vertical supports for the canopy shall not be closer than fifteen feet to the public right-of-way.
  - (c) Height of Canopies. Canopies located in a required yard shall not exceed eighteen feet from ground level.
- (Ord. A-2248. Passed 4-9-01.)

**1107.26 REQUIREMENTS FOR OUTDOOR DISPLAYS.**

- (a) Outdoor display of retail goods, wares and merchandise are permitted accessory uses in the B-1, B-2, I-1 and I-2 Districts.
  - (b) Such outdoor display must be customarily incidental to a principal use in the district in which the outdoor display is permitted.
  - (c) Such outdoor display is permitted in any yard, subject to a minimum setback of 20 feet from an adjoining property line.
  - (d) All outdoor displays must be located on the same zoning lot as the principal use.
  - (e) Areas use for such display shall be furnished with an all weather hard surface of a material such as bituminous or Portland concrete cement.
  - (f) Areas designated for required off-street loading, parking and handicap parking shall not be used for such outdoor display.
  - (g) Such display shall not violate applicable Federal, State, or local laws specific to the use of solid, liquid and gaseous chemicals, materials or products.
  - (h) Outdoor display of retail goods, wares and merchandise in the B-5 District is regulated by Section 1125.08 of the Zoning Code.
- (Ord. A-2248. Passed 4-9-01.)

**1107.08 ACCESSORY BUILDINGS IN N, S AND R DISTRICTS.**

- (a) No accessory buildings shall be located closer to a side or rear lot line than three feet in any N, S or R District, except that adequate distance shall be required for the opening and closing of doors between accessory buildings and the rear lot line. Swimming pools shall be located in accordance with Section 1323.02 of the Building Code.
  - (b) A detached accessory building shall only be permitted in the rear yard. An accessory building connected by a breezeway or similar structure shall be permitted in the side or rear yard.
  - (c) Accessory uses, such as public utility installations, walks, driveways, curbs, retaining walls, mail boxes, nameplates, lampposts, bird baths and structures of a similar nature, are permitted in any required front, side or rear yard. Trees, shrubs, flowers or plants shall be permitted in any required front, side or rear yard, except that vision clearance on corner lots shall be provided when required. Fences, latticework, screens, hedges or walls are considered accessory uses and are permitted in a required front, side or rear yard, subject to the provisions of Section 1107.17.
  - (d) In any N, S or R District, no accessory building shall be used as a dwelling, except that the Board of Appeals may authorize such use only for the domestic employees of residents of the principal building.
  - (e) In any N, S or R District, an accessory building may be erected detached from the principal building or may be connected therewith by a breezeway or similar structure not less than six feet in length. Accessory buildings shall be at least six feet from any dwelling situated on the same lot and shall not, in the aggregate, occupy more than thirty percent of the required rear yard.
  - (f) In any N, S or R District, no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal building, except for a temporary building incident to construction of the principal building.
  - (g) An accessory building or structure may exceed 1,000 square feet in total gross floor area as a conditional use with the following conditions:
    - (1) The total gross floor area of all accessory uses shall not exceed 1,250 square feet for lots of more than 21,780 square footage, but less than 43,560 square feet and 1,500 square feet for lots of 43,560 square feet or more.
    - (2) Any accessory structure or building exceeding 1,000 square feet is required to have the same rear and side yard setback distance from all property lines as required for the zoning district in which that structure is located.
    - (3) The total square footage of the accessory structure or building must not exceed 80% of the total ground floor area of the principal building.
- (Ord. A-2248. Passed 4-9-01 and Ord. A-2419. Passed 1-24-05.)

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  - (d) In any N, S or R District, no accessory building shall be used as a dwelling, except that the Board of Appeals may authorize such use only for the domestic employees of residents of the principal building.
  - (e) In any N, S or R District, an accessory building may be erected detached from the principal building or may be connected therewith by a breezeway or similar structure not less than six feet in length. Accessory buildings shall be at least six feet from any dwelling situated on the same lot and shall not, in the aggregate, occupy more than thirty percent of the required rear yard.
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  - (g) An accessory building or structure may exceed 1,000 square feet in total gross floor area as a conditional use with the following conditions:
    - (1) The total gross floor area of all accessory uses shall not exceed 1,250 square feet for lots of more than 21,780 square footage, but less than 43,560 square feet and 1,500 square feet for lots of 43,560 square feet or more.
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    - (3) The total square footage of the accessory structure or building must not exceed 80% of the total ground floor area of the principal building.
- (Ord. A-2248. Passed 4-9-01 and Ord. A-2419. Passed 1-24-05.)

## **CHAPTER 1108**

### **Flood Damage Protection**

- 1108.01 General Provisions.
- 1108.02 Definitions.
- 1108.03 Administration.
- 1108.04 Use and development standards for flood hazard reduction.
- 1108.05 Appeals and variances.
- 1108.06 Enforcement.

#### **1108.01: GENERAL PROVISIONS**

Statutory Authorization ARTICLE XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the City Council of City of Sidney, State of Ohio, does ordain as follows:

- (a) Findings of Fact: The City of Sidney has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.
- (b) Statement of Purpose: It is the purpose of these regulations to promote the public health, safety and general welfare, and to:
  - (1) Protect human life and health;
  - (2) Minimize expenditure of public money for costly flood control projects;
  - (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - (4) Minimize prolonged business interruptions;
  - (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
  - (6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
  - (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
  - (8) Minimize the impact of development on adjacent properties within and near flood prone areas;
  - (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
  - (10) Minimize the impact of development on the natural, beneficial values of the floodplain;

- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
  - (12) Meet community participation requirements of the National Flood Insurance Program.
- (c) Methods of Reducing Flood Loss: In order to accomplish its purposes, these regulations include methods and provisions for:
- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
  - (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
  - (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
  - (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.
- (d) Lands to Which These Regulations Apply: These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Sidney as identified in Section 1108.01(e), including any additional areas of special flood hazard annexed by City of Sidney.
- (e) Basis for Establishing the Areas of Special Flood Hazard: The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "Flood Insurance Study for the City of Sidney, Ohio", effective May 17, 1982. This study, with accompanying Flood Boundary and Floodway Maps and Flood Insurance Rate Maps dated November 17, 1982, and any revisions thereto, is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study and accompanying Maps are available in the office of the City Manager.
- (f) Abrogation and Greater Restrictions: These regulations are not intended to repeal any existing ordinances (resolutions) including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance (resolution), the more restrictive shall be followed. These regulations shall not impair any deed restriction covenant or easement but the land subject to such interests shall also be governed by the regulations.
- (g) Interpretation: In the interpretation and application of these regulations, all provisions shall be:
- (1) Considered as minimum requirements;
  - (2) Liberally construed in favor of the governing body; and,
  - (3) Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these regulations.
- (h) Warning and Disclaimer of Liability: The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not

imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Sidney, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

- (i) Severability: Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

## 1108.02 DEFINITIONS

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

- (a) “Accessory Structure” means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (b) “Appeal” means a request for review of the floodplain administrator’s interpretation of any provision of these regulations or a request for a variance.
- (c) “Base Flood” means the flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.
- (d) “Base (100-Year) Flood Elevation (BFE)” means the water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).
- (e) “Basement” means any area of the building having its floor subgrade (below ground level) on all sides.
- (f) “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (g) “Executive Order 11988 (Floodplain Management)” was issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.
- (h) “Federal Emergency Management Agency (FEMA)” is the agency with the overall responsibility for administering the National Flood Insurance Program.
- (i) “Fill” means a deposit of earth material placed by artificial means.
- (j) “Flood *or* Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - 1) The overflow of inland or tidal waters, and/or
  - 2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (k) “Flood Insurance Rate Map (FIRM)” means an official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.

- (l) “Flood Insurance Risk Zones” means the zone designations on FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:
  - 1) Zone A: Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.
  - 2) Zones A1-30 and Zone AE: Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.
  - 3) Zone AO: Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.
  - 4) Zone AH: Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.
  - 5) Zone A99: Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.
  - 6) Zone B and Zone X (shaded): Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.
  - 7) Zone C and Zone X (unshaded): Areas determined to be outside the 500-year floodplain.
- (m) “Flood Insurance Study (FIS)” means the official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.
- (n) “Flood Protection Elevation” means the Flood Protection Elevation, or FPE, which is the base flood elevation plus one foot of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.
- (o) “Floodway” means a channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.
- (p) “Freeboard” means a factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

- (q) “Historic structure” means any structure that is:
- 1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
  - 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
  - 3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.
  - 4) Individually listed on the inventory of historic places maintained by the City of Sidney whose historic preservation program which program is certified by the Ohio Historic Preservation Office.
- (r) “Hydrologic and hydraulic engineering analysis” means an analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.
- (s) “Letter of Map Change (LOMC)” means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC’s are broken down into the following categories:
- 1) “Letter of Map Amendment (LOMA)” means a revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.
  - 2) “Letter of Map Revision (LOMR)” means a revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.
  - 3) “Conditional Letter of Map Revision (CLOMR)”: means a formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.
- (t) “Lowest floor” means the lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an “enclosure below the lowest floor” which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.
- (u) “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent

foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.

- (v) "Manufactured home park" means, as specified in the Ohio Administrative Code 3701-27-01, any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.
- (w) "National Flood Insurance Program (NFIP)" means the NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.
- (x) "New construction" means structures for which the "start of construction" commenced on or after the initial effective date of the City of Sidney Flood Insurance Rate Map, November 17, 1982, and includes any subsequent improvements to such structures.
- (y) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Revised Code Section 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.
- (z) "Recreational vehicle" means a vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (aa) "Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as

clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

- (bb) "Structure" means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.
- (cc) "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (dd) "Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:
  - 1) Any improvement to a structure which is considered "new construction,"
  - 2) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
  - 3) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".
- (ee) "Variance" means a grant of relief from the standards of these regulations consistent with the variance conditions herein.
- (ff) "Violation" means the failure of a structure or other development to be fully compliant with these regulations.
- (gg) "Special Flood Hazard Area" also know as "Areas of Special Flood Hazard" means the land in the floodplain is subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal, state or local sources of including but not limited to historical flood information reflecting high watermarks, previous flood inundation areas, and flood prone soils associated with a watercourse.

### **1108.03 ADMINISTRATION**

- (a) Designation of the Floodplain Administrator: The City Manager or his or her designee is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.
- (b) Duties and Responsibilities of the Floodplain Administrator: The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:
  - (1) Evaluate applications for permits to develop in special flood hazard areas.

- (2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
  - (3) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
  - (4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.
  - (5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.
  - (6) Enforce the provisions of these regulations.
  - (7) Provide information, testimony, or other evidence as needed during variance hearings.
  - (8) Coordinate map maintenance activities and FEMA follow-up.
  - (9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.
- (c) Floodplain Development Permits: It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1108.01(e), until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.
- (d) Application Required: An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:
- (1) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
  - (2) Elevation of the existing, natural ground where structures are proposed.
  - (3) Elevation of the lowest floor, including basement, of all proposed structures.
  - (4) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.

- (5) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
- A. Floodproofing certification for non-residential floodproofed structure as required in Section 1108.04(e).
  - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1108.04(d)(5) are designed to automatically equalize hydrostatic flood forces.
  - C. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1108.04(i)(3).
  - D. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 1108.04(i)(2).
  - E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1108.04(i)(1).
  - F. Generation of base flood elevation(s) for subdivision and large scale developments as required by Section 1108.04(c).
- (e) Review and Approval of a Floodplain Development Permit Application
- 1) Review
    - A. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 1108.03(d) has been received by the Floodplain Administrator.
    - B. The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.
  - 2) Approval: Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

- (f) Inspections: The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.
- (g) Post-Construction Certifications Required: The following as-built certifications are required after a floodplain development permit has been issued:
  - 1. For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a *Federal Emergency Management Agency Elevation Certificate* completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
  - 2. For all development activities subject to the standards of Section 1108.03(j)(1), a Letter of Map Revision.
- (h) Revoking a Floodplain Development Permit: A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section 1108.05 of these regulations.
- (i) Exemption from Filing a Development Permit:
  - 1) An application for a floodplain development permit shall not be required for:
    - A. Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.
    - B. Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.
    - C. Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
    - D. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
    - E. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.
  - 2) Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.
- (j) Map Maintenance Activities: To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that Sidney flood maps, studies and other data identified in Section 1108.01(e) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:
  - 1. Requirement to Submit New Technical Data
    - A. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
  2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
  3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
  4. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 1108.04(c).
- B. It is the responsibility of the applicant to have technical data, required in accordance with Section 1108.03(j)(1), prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- C. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
1. Proposed floodway encroachments that increase the base flood elevation; and
  2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
- D. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 1108.03(j)(1).
2. Right to Submit New Technical Data: The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the City Manager of City of Sidney, and may be submitted at any time.
  3. Annexation / Detachment: Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Sidney have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Sidney Flood Insurance Rate Map accurately represent the City of Sidney boundaries, include within such notification a copy of a map of the City of Sidney suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Sidney has assumed or relinquished floodplain management regulatory authority.
- (k) Data Use and Flood Map Interpretation: The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:
1. In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
  2. Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood

- elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
3. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1108.05, Appeals and Variances.
  4. Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.
- (l) Substantial Damage Determinations:
- 1) Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Floodplain Administrator shall:
    - A. Determine whether damaged structures are located in special flood hazard areas;
    - B. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
    - C. Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.
  - 2) Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

#### **1108.04 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION**

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1108.01(e):

- (a) Use Regulations
1. Permitted Uses: All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by City of Sidney are allowed provided they meet the provisions of these regulations.
  2. Prohibited Uses
    - A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Section 3701 of the Ohio Revised Code.

- B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Section 3734 of the Ohio Revised Code.
- (b) Water and Wastewater Systems: The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:
1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
  2. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
  3. On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.
- (c) Subdivisions and Large Developments
1. All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
  2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
  4. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
  5. The applicant shall meet the requirement to submit technical data to FEMA in Section 1108.03(j)(1) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1108.04(c)(4).
- (d) Residential Structures
1. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring, Section 1108.04(d)(1), and construction materials resistant to flood damage, Section 1108.04(d)(2), are satisfied.
  2. New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
  3. New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
  4. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.]
  5. New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using

- pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:
- A. Be used only for the parking of vehicles, building access, or storage; and
  - B. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
  - C. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
6. Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
  7. Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Section 1108.04(d)
- (e) Nonresidential Structures
1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section 1108.04(d)(1) – (3) and (5-7)
  2. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
    - A. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
    - B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
    - C. Be certified by a registered professional engineer or architect, through the use of a *Federal Emergency Management Floodproofing Certificate*, that the design and methods of construction are in accordance with Section 1108.04(e)(2)(A) & (B).
- (f) Accessory Structures: Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:
1. They shall not be used for human habitation;
  2. They shall be constructed of flood resistant materials;
  3. They shall be constructed and placed on the lot to offer the minimum resistance to the flow of flood waters;
  4. They shall be firmly anchored to prevent flotation;

5. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
  6. They shall meet the opening requirements of Section 1108.04(d)(5)(C).
- (g) Recreational Vehicles: Recreational vehicles must meet at least one of the following standards:
1. They shall not be located on sites in special flood hazard areas for more than 180 days, or
  2. They must be fully licensed and ready for highway use, or
  3. They must meet all standards of Section 1108.04(d).
- (h) Above Ground Gas or Liquid Storage Tanks: All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (i) Assurance of Flood Carrying Capacity: Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:
1. Development in Floodways
    - A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
    - B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
      1. Meet the requirements to submit technical data in Section 1108.03(j)(1);
      2. An evaluation of alternatives which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
      3. Certification that no structures are located in areas which would be impacted by the increased base flood elevation;
      4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
      5. Concurrence of the City Manager of City of Sidney and the Chief Executive Officer of any other communities impacted by the proposed actions.
  2. Development in Riverine Areas with Base Flood Elevations but No Floodways
    - A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,
    - B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated

causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
2. Section 1108.04(i)(1)(B)(a) and (c) – (e).
3. Alterations of a Watercourse: For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the “bankfull stage.” The field determination of “bankfull stage” shall be based on methods presented in Chapter 7 of the *USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique* or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:
  - A. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
  - B. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
  - C. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with City of Sidney specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
  - D. The applicant shall meet the requirements to submit technical data in Section 1108.03(j)(1)(A)(3) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

#### **1108.05 APPEALS AND VARIANCES**

- (a) Powers and Duties: The Zoning Board of Appeals is hereby appointed to serve as the Appeals Board for these regulations as established by City code. Records of the Appeals Board shall be kept and filed in the offices of the Planning and Community Development Department. The Appeals Board shall
  1. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
  2. Authorize variances in accordance with Section 1108.05(c) of these regulations.
- (b) Appeals: Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before

the Appeals Board provided that such person shall file, within 20 days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.

Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

- (c) Variances: Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

1. Application for a Variance

- A. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
- B. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.

2. Public Hearing: At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

- A. The danger that materials may be swept onto other lands to the injury of others.
- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- D. The importance of the services provided by the proposed facility to the community.
- E. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- F. The necessity to the facility of a waterfront location, where applicable.
- G. The compatibility of the proposed use with existing and anticipated development.
- H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- I. The safety of access to the property in times of flood for ordinary and emergency vehicles.

- J. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
  - K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
3. Variances shall only be issued upon:
- A. A showing of good and sufficient cause.
  - B. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
  - C. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
  - D. A determination that the structure or other development is protected by methods to minimize flood damages.
  - E. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.
4. Other Conditions for Variances
- A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
  - B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 1108.05(c)(2)(a) – (k) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
  - C. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
5. Court Review. Those aggrieved by the decision of the Appeals Board may appeal such decision to the Shelby County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.

## **1108.06 ENFORCEMENT**

### **(a) Compliance Required**

- 1. No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1108.03(i).

2. Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1155.99.
  3. Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 1155.99.
- (b) Notice of Violation: Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:
1. Be put in writing on an appropriate form;
  2. Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action which, if taken, will effect compliance with the provisions of these regulations;
  3. Specify a reasonable time for performance;
  4. Advise the owner, operator, or occupant of the right to appeal;
  5. Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.
- (c) Violations and Penalties. Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a minor misdemeanor. Any person who violated these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Sidney. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Sidney from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Sidney shall prosecute any violation of these regulations in accordance with the penalties stated herein.

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## **CHAPTER 1109**

### **Nonconforming Lots, Improvements and Uses**

- 1109.01 Conformance required.
- 1109.02 Effect of Code on existing improvements.
- 1109.03 Lot requirements for single-family dwellings.
- 1109.04 Existing nonconforming buildings and uses.
- 1109.05 Extension of nonconforming buildings and uses.
- 1109.06 Discontinuance; use ceased.
- 1109.07 Moving nonconforming improvements and uses.
- 1109.08 Nonconforming uses created by amendment.
- 1109.10 Signs.
- 1109.11 Strengthening and restoring safety permitted.

#### **1109.01 CONFORMANCE REQUIRED.**

Except as hereinafter specified, no land, building, structure, facility, sign or premises shall hereafter be used, and no building or part thereof, or other structure, facility or sign, shall be located, erected, moved, reconstructed, extended, enlarged or altered except in conformity with this chapter herein specified for the zoning district in which it is located, including any applicable supplementary and specific regulations within this Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

#### **1109.02 EFFECT OF CODE ON EXISTING IMPROVEMENTS.**

Nothing contained in this Zoning Code shall require any change in the plans, construction, alteration or intended use of a building, structure, facility, or sign, the construction of which was actually begun and diligently prosecuted and had progressed to the point where the foundation was in and completed at the time of the passage of Ordinance A-83, passed June 22, 1953, and which entire improvement was completed within one year of the passage of such ordinance.

(Ord. A-2248. Passed 4-9-01.)

#### **1109.03 LOT REQUIREMENTS FOR SINGLE-FAMILY DWELLINGS.**

A single-family dwelling may be located on any lot in any district in which single-family dwellings are permitted, if the lot was a single parcel in single ownership or a single parcel included in a subdivision of record at the time of passage of this Zoning Code (Ordinance A-2248, passed April 9, 2001), even though the lot does not have the minimum lot area or minimum lot width specified for the district in which it is located, provided that yard spaces satisfy requirements stipulated for such district or as may be modified under Section 1107.05.

(Ord. A-2248. Passed 4-9-01.)

**1109.04 EXISTING NONCONFORMING BUILDINGS AND USES.**

- (a) Any building or use existing at the time of the enactment of Ordinance A-83, passed June 22, 1953, may be continued even though such building or use does not conform with the provisions of this Zoning Code for the district in which it is located.
- (b) It is the intent of this section to permit these nonconformities to continue until they are removed, but not to encourage their continuance or survival. Such uses are declared by this section to be incompatible with permitted uses in the district involved. It is further the intent of this chapter that nonconformities shall not be enlarged, expanded or extended, or changed to any other nonconforming use, except as approved by the Zoning Board of Appeals in accordance with the provisions specified in appropriate sections of this chapter.

(Ord. A-2248. Passed 4-9-01.)

**1109.05 EXTENSION OF NONCONFORMING BUILDINGS AND USES.**

- (a) An existing nonconforming use may be hereafter extended throughout those parts of the building which were manifestly arranged or designed for such use at the time of the enactment of Ordinance A-83, passed June 22, 1953.
- (b) No building or premises containing a nonconforming use shall hereafter be extended unless such extension shall conform to the provisions of Ordinance A-83, passed June 22, 1953, for the district in which it is located, except as otherwise provided in Ordinance A-83, and except as provided in subsection (c) hereof.
- (c) After due notice and a public hearing, the Board may permit the extension of a nonconforming building or use upon the lot occupied by such use of building at the time of enactment of Ordinance -83, passed June 22, 1953, or on a lot adjoining or directly across an alley, provided such lot was under the same ownership as the lot in question at the time of the enactment of Ordinance A-83, and where such extension is a necessary incident to the existing use, and provided, further, that such extension shall not exceed in all seventy-five percent of the reproduction value of the existing buildings at the time of the first extension, and shall in any case be undertaken within ten years after the enactment of Ordinance A-83. However, such extension may be made on lots purchased after the enactment of Ordinance A-83, but in such case such extension shall not exceed fifty percent of the reproduction value of such buildings at the time of the first extension and shall in any case be undertaken within ten years after the enactment of Ordinance A-83.

(Ord. A-2248. Passed 4-9-01.)

**1109.06 DISCONTINUANCE; USE CEASED.**

- (a) No building or lot where a nonconforming use has ceased for more than two years or has been replaced by a use permitted in the district in which such building or lot is located shall again be devoted to any use not permitted in such district.
- (b) If no structural alterations are made other than those necessary for maintenance, A nonconforming use of the building may be changed to another nonconforming use of an equal or more appropriate use for the district in which it is located. Such determinations shall be made by the City Manager via the Planning Coordinator and may be referred to the Board of Appeals for interpretation. In addition:

- (1) Any substitution approved shall only be permitted in parts of the building, structure or premises where the previous nonconforming use had occurred.
- (2) Whenever a nonconforming use is changed to a more appropriate use, such use shall not thereafter be reverted to a less appropriate use.
- (3) Any findings made by the Board of Appeals shall be made in a public hearing using procedures and requirements which parallel those found in Section 1151.05(a) through (e).

(Ord. A-2248. Passed 4-9-01.)

#### **1109.07 MOVING NONCONFORMING IMPROVEMENTS AND USES.**

No nonconforming building, structure, facility or sign shall be moved to another location on the same lot or any other lot unless the entire building, structure, facility or sign shall thereafter conform to the regulations of the zoning district in which it will be located after being so moved. Moreover, no nonconforming land use shall be relocated, in whole or in part, to any other location on the same or any other lot unless such use shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

(Ord. A-2248. Passed 4-9-01.)

#### **1109.08 NONCONFORMING USES CREATED BY AMENDMENT.**

The provisions of this chapter apply in the same manner to a use which may become a nonconforming use due to a later amendment to this Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

#### **1109.09 RECONSTRUCTION OF DAMAGED IMPROVEMENTS.**

Any nonconforming building, structure, facility or sign damaged more than seventy-five percent of its then fair market value above the foundations at the time of the damage by fire, flood, explosion, earthquake, war, riot or act of God or man shall not be reconstructed and used as before such calamity. If it is less than seventy-five percent damaged, it may be reconstructed or used, provided that such reconstruction or use is accomplished within twelve months of such calamity.

(Ord. A-2248. Passed 4-9-01.)

#### **1109.10 SIGNS.**

Signs shall conform to the provisions of Section 1149.17 of the Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

#### **1109.11 STRENGTHENING AND RESTORING SAFETY PERMITTED.**

Nothing in this Zoning Code shall prevent the strengthening or restoring to a safe condition of any part of any building, structure, facility, or sign declared unsafe.

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1111 N-1 Non-Urban District**

- 1111.001 Intent.
- 1111.01 Principal uses.
- 1111.02 Conditional uses.
- 1111.03 Accessory uses.
- 1111.04 Height regulations.
- 1111.05 Lot area, frontage and yard requirements.
- 1111.06 Minimum floor area.

### **1111.001 INTENT.**

The primary intent of the N-1 Non-Urban District is to designate certain land areas for very low-density residential development (1.43 dwelling units per acre), agricultural uses and other activities that are basically rural in character.

(Ord. A-2248. Passed 4-9-01.)

### **1111.01 PRINCIPAL USES.**

No building, structure or land shall be erected, altered or used which is arranged or designed for other than one or more of the following uses, except as provided herein and in Chapter 1109:

- (a) Educational institution;
- (b) Home office;
- (c) Landscaping service and retail business;
- (d) Plant nursery; commercial garden; greenhouse; customary general farming uses and buildings, but not including chicken farms, hog farms or other animal farms or kennels, or the raising of livestock, provided that any greenhouse, heating plant or other such building shall be not less than 100 feet from any lot line. Publicly owned or operated recreation facility;
- (e) Religious institution;
- (f) Single-family dwelling.

(Ord. A-2248. Passed 4-9-01; Ord. A-2642. Passed 5-24-10.)

### **1111.02 CONDITIONAL USES.**

The following uses shall be permitted only if expressly authorized by the Board and subject to the provisions of Chapter 1147:

- (a) Airport; heliport;
- (b) Cemetery;
- (c) Home occupation;
- (d) Hospital; nursing home;

- (e) Kennels;
  - (f) Mobile home park;
  - (g) Municipal or governmental building;
  - (h) Off-premises sign, subject to the provisions of Chapter 1149, but not within 300 feet of any lot used for residential purposes;
  - (i) Private noncommercial recreation facility or development;
  - (j) Private school; special school;
  - (k) Public camp;
  - (l) Public or commercial solid waste landfill or refuse dump;
  - (m) Public utility building necessary for the furnishing of adequate service to the area, but not including a garage, general office, outdoor storage yard or warehouse;
  - (n) Radio, television or telephonic communication transmitting tower;
  - (o) Wireless telecommunications facility, subject to the provisions of Chapter 1150.
- (Ord. A-2248. Passed 4-9-01.)

### **1111.03 ACCESSORY USES.**

Accessory uses, buildings and structures customarily incidental to any use listed as a permitted principal or conditional use in this chapter shall be permitted in conjunction with such use, provided that such buildings comply with minimum yard setbacks of Section 1107.08 and that the total ground floor area of such accessory uses, buildings and structures does not exceed sixty percent of the ground floor area of the principal building, but not to exceed 1,000 square feet, including:

- (a) Directional sign, subject to the provisions of Chapter 1149;
  - (b) On-premises sign, subject to the provisions of Chapter 1149;
  - (c) Political sign;
  - (d) Portable or temporary sign, subject to the provisions of Chapter 1149;
  - (e) Private garage; private parking area;
  - (f) Private swimming pool subject to the provisions of Chapter 1323 of the Code of Ordinances; hot tub; tennis court; basketball court;
  - (g) Real estate sign nameplate and institutional bulletin board subject to the provisions of Chapter 1149;
  - (h) Temporary building for uses incidental to construction.
- (Ord. A-2248. Passed 4-9-01.)

### **1111.04 HEIGHT REGULATIONS.**

No building or structure shall exceed the following height except as provided in Chapter 1107:

- (a) Principal uses; conditional uses  
(except as provided in Chapter 1147) .....2½ stories, but not to exceed 35 feet
  - (b) Accessory uses .....1 story, but not to exceed 15 feet
- (Ord. A-2248. Passed 4-9-01.)

**1111.05 LOT AREA, FRONTAGE AND YARD REQUIREMENTS.**

The following minimum requirements shall apply except as provided in Chapter 1107 or 1147:

	Lot Area (sq. ft.)	Lot Width (ft.)	Front Yard Depth (ft.)	Side Yard Width Each (ft.)	Rear Yard Depth (ft.)
All uses (except as provided in Chapter 1147)	32,600	150	40	25	40

(Ord. A-2248. Passed 4-9-01.)

**1111.06 MINIMUM FLOOR AREA.**

All dwellings shall have minimum floor area, excluding attached garage space, in square feet as follows:

- (a) One story in height.....1,200
- (b) Over one story in height.....1,375

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1113**

### **S-1 Suburban Residence District**

- 1113.001 Intent.
- 1113.01 Principal uses.
- 1113.02 Conditional uses.
- 1113.03 Accessory uses.
- 1113.04 Height regulations.
- 1113.05 Lot area, frontage and yard requirements.

#### **1113.001 INTENT.**

The primary intent of the S-1 Suburban Residence District is to designate certain land areas for single-family homes on lots containing a minimum of 12,700 square feet. These areas will constitute areas of sound residential development at a low density (3.43 dwelling units per acre).

(Ord. A-2248. Passed 4-9-01.)

#### **1113.01 PRINCIPAL USES.**

No building, structure or land shall be erected, altered or used which is arranged or designed, for other than one or more of the following uses, except as provided herein and in Chapter 1109:

- (a) Educational institution;
- (b) Home office;
- (c) Publicly owned or operated recreation facility;
- (d) Religious institution;
- (e) Single-family dwelling.

(Ord. A-2248. Passed 4-9-01.)

#### **1113.02 CONDITIONAL USES.**

The following uses shall be permitted only if expressly authorized by the Board and subject to the provisions of Chapter 1147:

- (a) Home occupation;
- (b) Hospital; nursing home;
- (c) Municipal or governmental building;
- (d) Private noncommercial recreation facility or development;
- (e) Public utility building necessary for the furnishing of adequate service to the area, but not including a garage, general office, outdoor storage yard or warehouse;
- (f) Radio, television or telephonic communication transmitting tower;
- (g) Wireless telecommunications facility, subject to the provisions of Chapter 1150.

(Ord. A-2248. Passed 4-9-01.)

#### **1113.03 ACCESSORY USES.**

Accessory uses, buildings and structures customarily incidental to any use listed as a permitted principal or conditional use in this chapter shall be permitted in conjunction with such use, provided

that such buildings comply with minimum yard setbacks of Section 1107.08 and that the total ground floor area of such accessory uses, buildings and structures does not exceed sixty percent of the ground floor area of the principal building, but not to exceed 1,000 square feet, including:

- (a) Directional sign, subject to the provisions of Chapter 1149;
- (b) Gardening and the raising of vegetables or fruits exclusively for the use and personal enjoyment of the occupants of the principal building and not for commercial purposes;
- (c) On-premises sign, subject to the provisions of Chapter 1149;
- (d) Political sign;
- (e) Portable or temporary sign, subject to the provisions of Chapter 1149;
- (f) Private garage; private parking area;
- (g) Private swimming pool subject to the provisions of Chapter 1323 of the Code of Ordinances; hot tub; tennis court; basketball court;
- (h) Real estate sign, nameplate and institutional bulletin board subject to the provisions of Chapter 1149;
- (i) Temporary building for uses incident to construction;
- (j) The keeping of domestic animals exclusively for the use and personal enjoyment of the occupants of the principal building, but not including a kennel.

(Ord. A-2248. Passed 4-9-01.)

**1113.04 HEIGHT REGULATIONS.**

No building or structure shall exceed the following height except as provided in Chapter 1107:

- (a) Principal uses, conditional uses  
(except as provided in Chapter 1147) .....2½ stories, but not to exceed 35 feet
- (b) Accessory uses ..... 1 story, but not to exceed 15 feet

(Ord. A-2248. Passed 4-9-01.)

**1113.05 LOT AREA, FRONTAGE AND YARD REQUIREMENTS.**

The following minimum requirements shall apply except as provided in Chapter 1107:

	Lot Area (sq. ft.)	Lot Width(ft.)	Front Yard Depth (ft.)	Side Yard Width Each (ft.)	Rear Yard Depth (ft.)
Dwellings	12,700	80	35	15	35
All other uses	18,000	120	35	25	35

(Ord. A-2248. Passed 4-9-01.)

**1113.06 MINIMUM FLOOR AREA.**

All dwellings shall have a minimum floor area, excluding attached garage space, in square feet as follows:

- (a) One story in height ..... 1,200
- (b) Over one story in height ..... 1,375

(Ord. A-2248. Passed 4-9-01.)

## **CHAPTER 1115**

### **R-1 Single Family Residence District**

- 1115.001 Intent.
- 1115.01 Principal uses.
- 1115.02 Conditional uses.
- 1115.03 Accessory uses.
- 1115.04 Height regulations.
- 1115.05 Lot area, frontage and yard requirements.
- 1115.06 Minimum floor area.

#### **1115.001 INTENT.**

The primary intent of the R-1 Single-Family Residence District is to designate certain land areas for single-family homes.

(Ord. A-2248. Passed 4-9-01.)

#### **1115.01 PRINCIPAL USES.**

No building, structure or land shall be erected, altered or used which is arranged or designed for other than one or more of the following uses, except as provided herein and in Chapter 1109:

- (a) Educational institution;
- (b) Home office;
- (c) Publicly owned or operated recreation facility;
- (d) Religious institution;
- (e) Single-family dwelling.

(Ord. A-2248. Passed 4-9-01.)

#### **1115.02 CONDITIONAL USES.**

The following uses shall be permitted only if expressly authorized by the Board and subject to the provisions of Chapter 1147:

- (a) Home occupation;
- (b) Hospital; nursing home;
- (c) Municipal or governmental building;
- (d) Private noncommercial recreation facility or development;
- (e) Public utility building necessary for the furnishing of adequate service to the area, but not including a garage, general office, outdoor storage yard or warehouse;
- (f) Radio, television or telephonic communication transmitting tower;
- (g) Wireless telecommunications facility, subject to the provisions of Chapter 1150.

(Ord. A-2248. Passed 4-9-01.)

**1115.03 ACCESSORY USES.**

Accessory uses, buildings and structures customarily incidental to any use listed as a permitted principal or conditional use in this chapter shall be permitted in conjunction with such use, provided that such buildings comply with minimum yard setbacks of Section 1107.08 and that the total ground floor area of such accessory uses, buildings and structures does not exceed sixty percent of the ground floor area of the principal building, but not to exceed 1,000 square feet, including:

- (a) Directional sign, subject to the provisions of Chapter 1149;
- (b) Gardening and the raising of vegetables or fruits exclusively for the use and personal enjoyment of the occupants of the principal building and not for commercial purposes;
- (c) On-premises sign, subject to the provisions of Chapter 1149;
- (d) Political sign;
- (e) Portable or temporary sign, subject to the provisions of Chapter 1149;
- (f) Private garage; private parking area;
- (g) Private swimming pool subject to the provisions of Chapter 1323 of the Code of Ordinances; hot tub; tennis court; basketball court;
- (h) Real estate sign, nameplate and institutional bulletin board subject to the provisions of Chapter 1149;
- (i) Temporary building for uses incident to construction;
- (j) The keeping of household pets exclusively for the use and personal enjoyment of the occupants of the principal building, but not including a kennel.

(Ord. A-2248. Passed 4-9-01; Ord. A-2351. Passed 5-27-03.)

**1115.04 HEIGHT REGULATIONS.**

No building or structure shall exceed the following height except as provided in Chapter 1107:

- (a) Principal uses; conditional uses  
(except as provided in Chapter 1147) .....2½ stories, but not to exceed 35 feet
- (b) Accessory uses .....1 story, but not to exceed 15 feet

(Ord. A-2248. Passed 4-9-01.)

**1115.05 LOT AREA, FRONTAGE AND YARD REQUIREMENTS.**

The following minimum requirements shall apply except as provided in Chapter 1107 or 1147:

	Lot Area (sq. ft.)	Lot Width (ft.)	Front Yard Depth (ft.)	Side Yard Width Each (ft.)	Side Yard Width Total (ft.)	Rear Yard Depth (ft.)
Dwellings	6,600	60	25	6	14	30
All other uses	14,000	100	25	20	40	40

(Ord. A-2248. Passed 4-9-01.)

**1115.06 MINIMUM FLOOR AREA.**

- (a) All one-story dwellings shall have a minimum of 1150 square feet under roof, at least 900 square feet of which must be living area and the balance of which may be an attached garage. Dwellings over one story shall have a minimum floor area of 1,000 square feet.
- (b) In lots which are presently platted and have a front footage of less than 60 feet, all dwellings shall have a minimum living area of at least 768 square feet.

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1117**

### **R-2 Single and Two-Family Residence District**

- 1117.001 Intent.
- 1117.01 Principal uses.
- 1117.02 Conditional uses.
- 1117.03 Accessory uses.
- 1117.04 Height regulations.
- 1117.05 Lot area, frontage and yard requirements.
- 1117.06 Minimum floor area.

#### **1117.001 INTENT.**

The primary intent of the R-2 Single and Two-Family Residence District is to designate certain land areas for single-family and two-family homes.

(Ord. A-2248. Passed 4-9-01.)

#### **1117.01 PRINCIPAL USES.**

No building, structure or land shall be erected, altered or used which is arranged or designed for other than one or more of the following uses except as provided herein and in Chapter 1109:

- (a) Educational institution;
- (b) Home office;
- (c) Publicly owned or operated recreation facility;
- (d) Religious institution;
- (e) Single-family dwelling;
- (f) Two-family dwelling.

(Ord. A-2248. Passed 4-9-01.)

#### **1117.02 CONDITIONAL USES.**

The following uses shall be permitted only if expressly authorized by the Board and subject to the provisions of Chapter 1147:

- (a) Boarding or lodging house, subject to the provisions of Section 1147.18;
- (b) Emergency shelter or transitional shelter, subject to the provisions of Section 1147.41;
- (c) Funeral home;
- (d) Home occupation;
- (e) Hospital; nursing home or nursing home conversion;
- (f) Municipal or governmental building;
- (g) Off-street parking accessory to any principal use, excluding a dwelling, not located on the same lot as the principal use;
- (h) Private banquet/reception facility;
- (i) Private noncommercial recreation facility or development;
- (j) Public utility building necessary for the furnishing of adequate service to the area, but not including a garage, general office, outdoor storage yard or warehouse;
- (k) Radio, television or telephonic communication transmitting tower;
- (l) Tourist home;

- (m) Wireless telecommunications facility, subject to the provisions of Chapter 1150.  
(Ord. A-2248. Passed 4-9-01. Ord. A-2419. Passed 1-24-05. Ord. A-2642. Passed 5-24-10)

**1117.03 ACCESSORY USES.**

Accessory uses, buildings and structures customarily incidental to any use listed as a permitted principal or conditional use in this chapter shall be permitted in conjunction with such use, provided that such buildings comply with minimum yard setbacks of Section 1107.08 and that the total ground floor area of such accessory uses, buildings and structures does not exceed sixty percent of the ground floor area of the principal building, but not to exceed 1,000 square feet, including:

- (a) Directional sign, subject to the provisions of Chapter 1149;
- (b) Gardening and the raising of vegetables and fruits exclusively for the use and personal enjoyment of the occupants of the principal building and not for commercial purposes;
- (c) On-premises sign, subject to the provisions of Chapter 1149;
- (d) Political sign;
- (e) Portable or temporary sign, subject to the provisions of Chapter 1149;
- (f) Private garage; private parking area;
- (g) Private swimming pool subject to the provisions of Chapter 1323 of the Code of Ordinances; hot tub; tennis court; basketball court;
- (h) Real estate sign, nameplate and institutional bulletin board subject to the provisions of Chapter 1149;
- (i) Temporary building for uses incident to construction;
- (j) The keeping of household pets exclusively for the use and personal enjoyment of the occupants of the principal building, but not including a kennel.  
(Ord. A-2248. Passed 4-9-01; Ord. A-2351. Passed 5-27-03.)

**1117.04 HEIGHT REGULATIONS.**

No building or structure shall exceed the following height except as provided in Chapter 1107:

- (a) Principal uses; conditional uses  
(except as provided in Chapter 1147) .....2½ stories, but not to exceed 35 feet
- (b) Accessory uses .....1 story, but not to exceed 15 feet  
(Ord. A-2248. Passed 4-9-01.)

**1117.05 LOT AREA, FRONTAGE AND YARD REQUIREMENTS.**

The following minimum requirements shall apply except as provided in Chapter 1107:

	Lot Area (sq. ft.)	Lot Area Per Dwelling Unit (sq. ft.)	Lot Width (sq. ft.)	Front Yard Depth (ft.)	Side Yard Width Each (ft.)	Rear Yard Depth (ft.)
Single-family dwellings						
1 & 1½ stories	6,000	6,000	50	25	6	25
2 & 2½ stories	6,000	6,000	50	25	8	25
Two-family dwellings						
1 & 1½ stories	8,000	4,000	60	25	8	25
2 & 2½ stories	8,000	4,000	60	25	8	25
All other uses (except as provided in Chapter 1147)	12,000	N/A	90	25	20	35

(Ord. A-2248. Passed 4-9-01.)

**1117.06 MINIMUM FLOOR AREA.**

All dwellings shall have a minimum floor area, excluding attached garage space, in square feet as follows:

Dwelling	1 & 1½ Stories	2 & 2½ Stories
(a) One-family	672	1,000
(b) Two-family per unit	450	600

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1119 R-3 Multi-Family Residence District**

- 1119.001 Intent.
- 1119.01 Principal uses.
- 1119.02 Conditional uses.
- 1119.03 Accessory uses.
- 1119.04 Height regulations.
- 1119.05 Lot area, frontage and yard requirements.
- 1119.06 Minimum floor area.

### **1119.001 INTENT.**

The primary intent of the R-3 Multi-Family Residence District is to reserve land areas for multiple-family residential development.

(Ord. A-2248. Passed 4-9-01.)

### **1119.01 PRINCIPAL USES.**

No building, structure or land shall be erected, altered or used which is arranged or designed for other than one or more of the following uses, except as provided herein and in Chapter 1109:

- (a) Boarding or lodging house;
- (b) Educational institution;
- (c) Home office;
- (d) Multi-family dwelling;
- (e) Private school; special school;
- (f) Publicly owned or operated recreation facility; public library or other public cultural facility;
- (g) Religious institution;
- (h) Single-family dwelling;
- (i) Two-family dwelling.

(Ord. A-2248. Passed 4-9-01.)

### **1119.02 CONDITIONAL USES.**

The following uses shall be permitted only if expressly authorized by the Board and subject to the provisions of Chapter 1147:

- (a) Emergency shelter or transitional shelter, subject to the provisions of Section 1147.41;
- (b) Funeral home or mortuary;
- (c) Group home;
- (d) Home occupation;
- (e) Hospital; nursing home or nursing home conversion;
- (f) Mobile home park;
- (g) Municipal or governmental building;

- (h) Off-street parking accessory to any principal use, excluding a dwelling, not located on the same lot as the principal use;
  - (i) Private club or lodge;
  - (j) Private noncommercial recreation development or facility;
  - (k) Professional office;
  - (l) Public utility building necessary for the furnishing of adequate service to the area, but not including a garage, general office, outdoor storage yard or warehouse;
  - (m) Tourist home;
  - (n) Wireless telecommunications facility, subject to the provisions of Chapter 1150.
- (Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05. Ord. A-2642. Passed 5-24-10)

### **1119.03 ACCESSORY USES.**

Accessory uses, buildings and structures customarily incidental to any use listed as a permitted principal or conditional use in this chapter shall be permitted in conjunction with such use, provided that such buildings comply with minimum yard setbacks of Section 1107.08 and that the total ground floor area of such accessory uses, buildings and structures does not exceed sixty percent of the ground floor area of the principal building, but not to exceed 1,000 square feet, including:

- (a) Directional sign, subject to the provisions of Chapter 1149;
  - (b) Gardening and the raising of vegetables and fruits exclusively for the use and personal enjoyment of the occupants of the principal building and not for commercial purposes;
  - (c) On-premises sign, subject to the provisions of Chapter 1149;
  - (d) Political sign;
  - (e) Portable or temporary sign, subject to the provisions of Chapter 1149;
  - (f) Private garage; private parking area;
  - (g) Private swimming pool subject to the provisions of Chapter 1323 of the Code of Ordinances; hot tub; tennis court; basketball court;
  - (h) Real estate sign, nameplate and institutional bulletin board subject to the provisions of Chapter 1149;
  - (i) Temporary building for uses incident to construction;
  - (j) The keeping of household pets exclusively for the use and personal enjoyment of the occupants of the principal building, but not including a kennel.
- (Ord. A-2248. Passed 4-9-01; Ord. A-2351. Passed 5-27-03.)

### **1119.04 HEIGHT REGULATIONS.**

No building or structure shall exceed the following height except as provided in Chapter 1107 and Section 1144.04:

- (a) Single and two-family dwellings .....2½ stories, but not to exceed 35 feet
- (b) Other principal uses; conditional uses  
(except as provided in Chapter 1147)      60 feet\*
- (c) Accessory uses .....1 story, but not to exceed 15 feet

\*except that no building or structure located on a lot any portion of which is within 275 feet of the Shelby County Courthouse Square shall exceed a height of three stories or 35 feet.

(Ord. A-2248. Passed 4-9-01.)

**1119.05 LOT AREA, FRONTAGE AND YARD REQUIREMENTS.**

The following minimum requirements shall apply except as provided in Chapter 1107:

	Lot Area (ft.)	Lot Area Per Dwelling Unit (sq. ft.)	Lot Width (ft.)	Front Yard Depth (ft.)	Side Yard Width Each (ft.)	Rear Yard Depth (ft.)
Single-family dwellings						
1 & 1½ stories	6,000	6,000	50	25	6	25
2 & 2½ stories	6,000	6,000	50	25	8	25
Two-family dwellings						
1 & 1½ stories	8,000	4,000	60	25	8	25
2 & 2½ stories	8,000	4,000	60	25	8	25

Multi-family dwellings						
1 & 1½ stories	10,000	2,000	75	25	10	25
2 & 2½ stories	12,000	2,000	90	25	15	25
3 or more stories	20,000	2,000	125	25	20	40
All other uses (except as provided in Chapter 1147)	12,000	N/A	90	25	20	35

(Ord. A-2248. Passed 4-9-01.)

**1119.06 MINIMUM FLOOR AREA.**

All dwellings shall have a minimum floor area, excluding attached garage space, in square feet as follows:

	<u>1 &amp; 1½ Stories</u>	<u>2 or more Stories</u>
(a) Single-family dwelling	672	1,000
(b) Two-family dwelling (per unit)	450	600
(c) Multi-family dwelling:		
(1) Efficiency unit	350	350
(2) One-bedroom unit	500	500
(3) Two-bedroom unit	600	600
(4) Three-bedroom unit	700	700
(5) Four or more bedroom unit	850	850
(Ord. A-2248. Passed 4-9-01.)		

## **CHAPTER 1120 O-1 Office District**

- 1120.001 Intent.
- 1120.01 Principal uses.
- 1120.02 Conditional uses.
- 1120.03 Accessory uses.
- 1120.04 Required conditions.
- 1120.05 Prohibited uses.
- 1120.06 Height requirements.
- 1120.07 Lot area, frontage and yard requirements.

### **1120.001 INTENT.**

The primary intent of the O-1 Office District is to designate certain land areas for professional, institutional and administrative offices which may serve as buffers between residential and business or industrial uses.

(Ord. A-2248. Passed 4-9-01.)

### **1120.01 PRINCIPAL USES.**

No building, structure, or land shall be erected, altered or used which is arranged or designated for other than one or more of the following uses, except as provided herein and in Chapter 1109:

- (a) Accountants, advertising agencies, appraisers, attorneys, business and management consultants, economists, and public relations consultants;
- (b) Architects, landscape architects, planners, engineers and surveyors, geologists, industrial designers, graphic designers, and interior designers;
- (c) Educational institution;
- (d) Financial institution;
- (e) Insurance brokers and services, investment brokers, real estate brokers and offices, and title and escrow companies;
- (f) Medical, dental, and health-related services of all types for humans;
- (g) Ophthalmologists, optometrists, and opticians;
- (h) Private school; special school;
- (i) Professional, institutional and administrative offices of any type of business;
- (j) Public and private libraries, art galleries, and museums;
- (k) Religious institution;
- (l) Retail sales that are incidental and subordinate to any of the above uses, subject to applicable off-street loading and parking requirements.

(Ord. A-2248. Passed 4-9-01.)

### **1120.02 CONDITIONAL USES.**

The following uses shall be permitted only if expressly authorized by the Board of Zoning Appeals and subject to the provisions of Chapter 1147:

- (a) Emergency shelter, subject to the provisions of Section 1147.42;
  - (b) Funeral home or mortuary;
  - (c) Hospital; nursing home;
  - (d) Municipal or government center;
  - (e) Off-street parking accessory to any principal use, excluding a dwelling, not located on the same lot as the principal use;
  - (f) Private club or lodge;
  - (g) Wireless communications facility, subject to the provisions of Chapter 1150.
- (Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05.)

### **1120.03 ACCESSORY USES.**

Accessory uses, buildings and structures customarily incidental to any use listed as a permitted principal or conditional use in this chapter shall be permitted in conjunction with such use, provided that such buildings comply with yard setbacks of this district and that the total ground floor area of such accessory uses, buildings and structures does not exceed ten percent of the lot area nor fifty percent of the ground floor area of the principal building, including:

- (a) Architectural canopy sign, subject to the provisions of Chapter 1149;
  - (b) Directional sign, subject to the provisions of Chapter 1149;
  - (c) Interstate sign, subject to the provisions of Chapter 1149;
  - (d) Off street loading and parking;
  - (e) On-premises sign, subject to the provisions of Chapter 1149;
  - (f) Political sign;
  - (g) Portable or temporary sign, subject to the provisions of Chapter 1149;
  - (h) Private garage; private parking area;
  - (i) Projecting sign, subject to the provisions of Chapter 1149;
  - (j) Real estate sign, nameplate and institutional bulletin board subject to the provisions of Chapter 1149;
  - (k) Temporary building for uses incident to construction.
- (Ord. A-2248. Passed 4-9-01.)

### **1120.04 REQUIRED CONDITIONS.**

All businesses or services shall be conducted wholly within a completely enclosed building, except for off-street parking.

(Ord. A-2248. Passed 4-9-01.)

### **1120.05 PROHIBITED USES.**

Dwellings and residences of any kind. Any use legally existing at the time of the adoption of this Zoning Code shall be classified as a legal nonconforming use.

(Ord. A-2248. Passed 4-9-01.)

**1120.06 HEIGHT REQUIREMENTS.**

No building or structure shall exceed the following height except as provided in Chapter 1107:

- (a) Principal uses; conditional uses  
(except as provided in Chapter 1147) .....2 stories, but not to exceed 35 feet
- (b) Accessory uses .....1 story, but not to exceed 15 feet  
(Ord. A-2248. Passed 4-9-01.)

**1120.07 LOT AREA, FRONTAGE AND YARD REQUIREMENTS.**

The following minimum requirements shall apply except as provided in Chapter 1107:

	Front Yard Depth (ft.)	Side Yard Width Each (ft.)	Rear Yard Depth (ft.)
All uses (except as provided in Chapter 1147)	25	10*	25

\*Except when adjoining an S or R District, not less than 20 feet.  
(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1121**

### **B-1 Local Business District**

- 1121.001 Intent.
- 1121.01 Principal uses.
- 1121.02 Conditional uses.
- 1121.03 Accessory uses.
- 1121.04 Required conditions.
- 1121.05 Height regulations.
- 1121.06 Lot area, frontage and yard requirements.
- 1121.07 Minimum floor area.

#### **1121.001 INTENT.**

The primary intent of the B-1 Local Business District is to reserve certain land areas for retail business and personal service uses. These areas will constitute concentrations of neighborhood business uses located in convenient and close relationship to surrounding residential development.

(Ord. A-2248. Passed 4-9-01.)

#### **1121.01 PRINCIPAL USES.**

No building, structure or land shall be erected, altered or used which is arranged or designed for other than one or more of the following uses, except as provided herein and in Chapter 1109. The following retail business and service establishments when supplying commodities or performing services primarily for the residents of the neighborhood on a day-to-day basis:

- (a) Barber shop; beauty shop; weight loss center;
- (b) Boarding or lodging house;
- (c) Business or professional office;
- (d) Charitable bingo halls and similar establishments conducting legal games of chance, subject to the provisions of Chapter 517 of the Code of Ordinances;
- (e) Commercial day care center;
- (f) Consignment shop;
- (g) Drug store;
- (h) Dry cleaner; laundry;
- (i) Educational institution;
- (j) Financial institution;
- (k) Florist shop;
- (l) Grocery; meat market; fruit and vegetable store; supermarket; delicatessen;
- (m) Hardware store; paint store;
- (n) Home office;
- (o) Motor vehicle self service station/mini mart;
- (p) Motor vehicle wash facility;
- (q) Newsdealer;

- (r) Postal station;
  - (s) Private club or lodge;
  - (t) Private noncommercial recreation development or facility;
  - (u) Private school; special school;
  - (v) Public parking area;
  - (w) Publicly owned or operated recreation facility; public library or other public cultural facility;
  - (x) Religious institution;
  - (y) Shoe repair shop;
  - (z) Tailor and pressing shop;
  - (aa) Residential interior design;
  - (bb) Consumer electronics sales, including computer, audio, video, wireless and handheld devices;
  - (cc) Motor vehicle accessory – retail sales only;
  - (dd) Video rental store
- (Ord. A-2248. Passed 4-9-01. and Ord. A-2419. Passed 1-24-05)

#### **1121.02 CONDITIONAL USES.**

The following uses shall be permitted only if expressly authorized by the Board of Appeals and subject to the provisions of Chapter 1147:

- (a) Bakery, provided the floor areas used for production shall not exceed 750 square feet;
  - (b) Catering, subject to the provisions of Section 1147.43;
  - (c) Dry cleaning establishment using not more than two clothes cleaning units, neither of which shall have a rated capacity of more than sixty pounds;
  - (d) Funeral home or mortuary;
  - (e) Home occupation;
  - (f) Multi-family dwelling;
  - (g) Municipal or governmental building;
  - (h) Off-premises sign, subject to the provisions of Chapter 1149;
  - (i) Off-street parking accessory to any principal use, excluding a dwelling, not located on the same lot as the principal use;
  - (j) Outdoor storage, subject to the provisions of Section 1147.38;
  - (k) Private noncommercial recreation facility;
  - (l) Public utility building necessary for the furnishing of adequate service to the areas, but not including a garage, general office, outdoor storage yard or warehouse;
  - (m) Restaurant or tavern, but not including entertainment or dancing and not including drive-in establishments; soda fountain or ice cream parlor; liquor sales subject to applicable regulations and such permits as may be required by law;
  - (n) Single-family dwelling;
  - (o) Tourist home;
  - (p) Two-family dwelling;
  - (q) Wireless telecommunications facility, subject to the provisions of Chapter 1150.
- (Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05. Ord. A-2642. Passed 5-24-10)

**1121.03 ACCESSORY USES.**

Accessory uses, buildings and structures customarily incidental to any use listed as a permitted principal or conditional use in this chapter shall be permitted in conjunction with such use, provided that such buildings comply with yard setbacks of this district and that the total ground floor area of such accessory uses, buildings and structures does not exceed ten percent of the lot area nor fifty percent of the ground floor area of the principal building, including:

- (a) Architectural canopy sign, subject to the provisions of Chapter 1149;
  - (b) Directional sign, subject to the provisions of Chapter 1149;
  - (c) Interstate sign, subject to the provisions of Chapter 1149;
  - (d) Off-street parking facility;
  - (e) On-premises sign, subject to the provisions of Chapter 1149;
  - (f) Outdoor displays;
  - (g) Political sign;
  - (h) Portable or temporary sign, subject to the provisions of Chapter 1149;
  - (i) Private garage; private parking area;
  - (j) Projecting sign, subject to the provisions of Chapter 1149;
  - (k) Real estate sign, nameplate and institutional bulletin board, subject to the provisions of Chapter 1149;
  - (l) Temporary building for uses incidental to construction;
  - (m) Temporary structure for uses related to labor disputes.
- (Ord. A-2248. Passed 4-9-01.)

**1121.04 REQUIRED CONDITIONS.**

All businesses, services or processing shall be conducted wholly within a completely enclosed building, except for off-street parking and conditionally approved outdoor storage. All products produced on the lot, whether primary or incidental, shall be sold at retail primarily on the lot where produced. Processes and equipment employed and goods produced or sold shall be limited to those which are not objectionable by any reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water-carried waste.

(Ord. A-2248. Passed 4-9-01.)

**1121.05 HEIGHT REGULATIONS.**

No building or structure shall exceed the following height except as provided in Chapter 1107:

- (a) Single and two-family dwellings .....2½ stories, but not to exceed 35 feet
- (b) Other principal uses; conditional uses  
(except as provided in Chapter 1147) .....35 feet
- (c) Accessory uses .....2 stories, but not to exceed 25 feet

(Ord. A-2248. Passed 4-9-01.)

**1121.06 LOT AREA, FRONTAGE AND YARD REQUIREMENTS.**

The following minimum requirements shall apply except as provided in Chapter 1107:

	Lot Area (sq. ft.)	Lot Area Per Dwelling Unit (sq. ft.)	Lot Width (ft.)	Front Yard Depth (ft.)	Side Yard Width Each (ft.)	Rear Yard Depth (ft.)
Dwellings and other non-business uses*						
Business uses	None	N/A	None	20	None**	15

\*Same as required in Section 1119.05

\*\*Except when adjoining any S or R District, not less than ten feet; in other cases when provided, not less than five feet.

(Ord. A-2248. Passed 4-9-01.)

**1121.07 MINIMUM FLOOR AREA.**

All dwellings shall have a minimum floor area, excluding attached garage space, in square feet as follows:

Same as required in Section 1119.06.

(Ord. A-2248. Passed 4-9-01.)

## **CHAPTER 1123 B-2 Community Business District**

- 1123.001 Intent.
- 1123.01 Principal uses.
- 1123.02 Conditional uses.
- 1123.03 Accessory uses.
- 1123.04 Required conditions.
- 1123.05 Prohibited uses.
- 1123.06 Height regulations.
- 1123.07 Lot area, frontage and yard requirements.

### **1123.001 INTENT.**

The primary intent of the B-2 Community Business District is to designate certain land areas for community and highway oriented retail and service establishments which serve the entire community.

(Ord. A-2248. Passed 4-9-01.)

### **1123.01 PRINCIPAL USES.**

No building, structure or land shall be erected, altered or used which is arranged or designed for other than one or more of the following uses, except as provided herein and in Chapter 1109. The following retail business and service establishments:

- (a) Apparel shop; shoe store; millinery shop; dressmaking establishment or tailor;
- (b) Appliance sales and/or service establishment; music store;
- (c) Bail and surety bond offices;
- (d) Bakery;
- (e) Barber shop; beauty shop; reducing salon;
- (f) Bicycle repair shop;
- (g) Business or professional office;
- (h) Catering;
- (i) Charitable bingo halls and similar establishments conducting legal games of chance, subject to the provisions of Chapter 517 of the Code of Ordinances;
- (j) Consignment shop;
- (k) Daycare center, commercial;
- (l) Department store; variety stores; mail order office; furniture store; toy store; dry goods store;
- (m) Drug store;
- (n) Dry cleaning establishment;
- (o) Finishing, custom: furniture and fixtures
- (p) Financial institution;
- (q) Florist shop;
- (r) Funeral home or mortuary;

- (s) Furniture store, including new and used home furnishings, appliances, sewing machines, wall and floor coverings;
  - (t) Gift shop; artists supply store or art shop; antique shop; office supply and equipment store;
  - (u) Grocery; meat market; fruit and vegetable store; supermarket; delicatessen;
  - (v) Hardware store; paint store; sporting goods store;
  - (w) Hospital; nursing home;
  - (x) Hotel; motel;
  - (y) Indoor theater; billiard room or pool hall; bowling lanes;
  - (z) Jewelry store;
  - (aa) Landscaping service and retail business;
  - (bb) Laundry pick-up store; self-service laundry; self-service dry cleaner;
  - (cc) Motor vehicle customizing shop;
  - (dd) Motor vehicle full service station;
  - (ee) Motor vehicle sales, rental or lease;
  - (ff) Motor vehicle self service station/mini mart;
  - (gg) Motor vehicle wash facility;
  - (hh) Movie theater;
  - (ii) Newsdealer;
  - (jj) Off-premises sign, subject to the provisions of Chapter 1149;
  - (kk) Pawn shop;
  - (ll) Postal station; telegraph office; bus depot;
  - (mm) Private club or lounge;
  - (nn) Public parking area;
  - (oo) Publicly owned or operated recreation facility; commercial recreation facility;
  - (pp) Religious institution;
  - (qq) Restaurant or tavern, but not including drive-in establishments; soda fountain or ice cream parlor; night club or cocktail lounge; liquor sales subject to applicable regulations and such permits as may be required by law;
  - (rr) Shoe repair shop;
  - (ss) Tattoo and body piercing;
  - (tt) Tool and equipment rental;
  - (uu) Trade or business school; photographic studio; dancing studio; radio or television broadcasting studio;
  - (vv) Wireless telecommunications facility, subject to the provisions of Chapter 1150;
  - (ww) Printing and publishing.
  - (xx) Automobile parts store - retail sales only;
  - (yy) Motor vehicle accessory – retail sales only;
  - (zz) Video rental store;
  - (aaa) Consumer electronics sales, including computer, audio, video, wireless and handheld devices.
- (Ord. A-2248. Passed 4-9-01; Ord. A-2288. Passed 1-14-02; Ord. A-2419. Passed 1-24-05; Ord. A-2515. Passed 5-29-07. Ord. A-2642. Passed 5-24-10.)

**1123.02 CONDITIONAL USES.**

The following uses shall be permitted only if expressly authorized by the Board of Appeals and subject to the provisions of Chapter 1147:

- (a) Animal hospital or kennel, provided that any enclosure or building in which animals are kept shall be at least 100 feet from an N, S or R District and that exercise runs be enclosed on all exterior sides by an opaque, well-maintained fence or wall at least six feet in height;
- (b) Commercial parking facility, subject to the provisions of Section 1147.37;
- (c) Drive-in restaurants;
- (d) Motor vehicle repair garage, but not including body and fender work or painting;
- (e) Municipal or governmental building;
- (f) Off-street parking accessory to any principal use, excluding a dwelling, not located on the same lot as the principal use;
- (g) Outdoor storage, subject to the provisions of Section 1147.38;
- (h) Public garage;
- (i) Public utility building necessary for the furnishing of adequate service to the area, but not including an outdoor storage yard or warehouse;
- (j) Radio, television or telephonic communication transmitting tower;
- (k) Self-service storage facilities;
- (l) Wireless telecommunications facility, subject to the provisions of Chapter 1150;
- (m) Other service commercial uses not otherwise listed as permitted principal uses which, in the opinion of the Board, are similar in nature to permitted B-2 uses, including some custom manufacturing or processing activities which, in the Board's opinion, are commercial service oriented businesses. Such uses shall comply with the following guidelines:
  - (1) Be located in a structure or building that does not contain residential uses;
  - (2) Have appropriate facilities and equipment for proper ventilation, storage of flammable materials, loading and unloading; and
  - (3) Provide for an inspection by the Fire Prevention Officer prior to the Zoning Board of Appeals consideration of the request, to assist the Board with an inspection report and recommendations concerning the proposed use. Such inspection report will also accommodate concerns such as glare, noise, smoke, flammability and other objectionable influences.
- (o) Plant nursery;
- (p) Single family residence as part of a funeral home / mortuary subject to the provisions of 1147.42.  
(Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05.)

**1123.03 ACCESSORY USES.**

Accessory uses, buildings and structures customarily incidental to any use listed as a permitted principal or conditional use in this chapter shall be permitted in conjunction with such use, provided that such buildings comply with yard setbacks of this district and that the total ground floor area of such accessory uses, buildings and structures does not exceed ten percent of the lot area nor fifty percent of the ground floor area of the principal building, including:

- (a) Architectural canopy sign, subject to the provisions of Chapter 1149;
- (b) Directional sign, subject to the provisions of Chapter 1149;

- (c) Interstate sign, subject to the provisions of Chapter 1149;
  - (d) Off-street parking facility;
  - (e) On-premises sign, subject to the provisions of Chapter 1149;
  - (f) Outdoor displays;
  - (g) Political sign;
  - (h) Portable or temporary sign, subject to the provisions of Chapter 1149;
  - (i) Projecting sign, subject to the provisions of Chapter 1149;
  - (j) Real estate sign, nameplate and institutional bulletin board, subject to the provisions on Chapter 1149;
  - (k) Temporary building for uses incident to construction;
  - (l) Temporary structures for uses related to labor disputes.
- (Ord. A-2248. Passed 4-9-01.)

**1123.04 REQUIRED CONDITIONS.**

All businesses, services or processing shall be conducted wholly within a completely enclosed building, except for off-street parking and conditionally approved outdoor storage. All products produced on the lot, whether primary or incidental, shall be sold at retail primarily on the lot where produced. Processes and equipment employed and goods produced or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water-carried waste.

(Ord. A-2248. Passed 4-9-01.)

**1123.05 PROHIBITED USES.**

- (a) Dwellings and residences of any kind and schools are prohibited except as listed in Section 1123.02(p). Any use legally existing at the time of the adoption of this Zoning Code shall be classified as a legal nonconforming use.
- (b) No use shall be permitted or authorized to be established or maintained which is or may become hazardous, noxious or objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water-carried waste.

(Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05.)

**1123.06 HEIGHT REGULATIONS.**

No building or structure shall exceed the following height except as provided in Chapter 1107:

- (a) Principal uses; conditional uses  
(except as provided in Chapter 1147) .....60 feet\*
- (b) Accessory uses .....25 feet

\*except that no building or structure on a lot, any portion of which is within 275 feet of the Shelby County Courthouse Square, shall exceed a height of three stories or 35 feet.

(Ord. A-2248. Passed 4-9-01.)

**1123.07 LOT AREA, FRONTAGE AND YARD REQUIREMENTS.**

The following minimum requirements shall apply except as provided in Chapter 1107:

	Front Yard Depth (ft.)	Side Yard Width Each (ft.)	Rear Yard Depth (ft.)
(except as provided in Chapter 1147)	25	10*	25

\*Except when adjoining any S or R District, not less than 20 feet.

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1125**

### **B-5 Court Square Business District**

- 1125.001 Intent.
- 1125.01 Principal uses.
- 1125.02 Conditional uses.
- 1125.03 Accessory uses.
- 1125.04 Required conditions.
- 1125.05 Height regulations.
- 1125.06 Lot area, frontage and yard requirements.
- 1125.07 Minimum floor area.
- 1125.08 Downtown sidewalk displays.

#### **1125.001 INTENT.**

The primary intent of the B-5 Court Square District is to designate the area surrounding the Court Square for certain retail and service uses that will complement the historic nature of the area while serving the entire community.

(Ord. A-2248. Passed 4-9-01.)

#### **1125.01 PRINCIPAL USES.**

No building, structure or land shall be erected, altered or used which is arranged or designed for other than one or more of the following uses, except as provided herein and in Chapter 1109. The following retail business and service establishments:

- (a) Antique shop for retail sales and display and incidental restorations;
- (b) Apparel store; shoe store; millinery shop; dressmaking establishment or tailor;
- (c) Appliances sales and/or service;
- (d) Art store, including hobbies and crafts, supplies, sales and exhibits;
- (e) Automobile parts store - retail sales only;
- (f) Bail and surety bond offices;
- (g) Bakery; baking of goods primarily for retail sales on the premises directly to the consumer;
- (h) Barber shop; beauty shop; weight loss center; tanning salon;
- (i) Bicycle sales and repair shop;
- (j) Bookstores; newsstands;
- (k) Broadcasting studio for radio and/or television productions;
- (l) Business offices; office building; professional offices; commercial offices; medical/dental clinic;
- (m) Camera and photographic supplies primarily for retail sales;
- (n) Commercial day care center;
- (o) Confectioneries;
- (p) Consignment shop;
- (q) Dance studio;

- (r) Delicatessen;
  - (s) Department store, discount store;
  - (t) Drug store;
  - (u) Financial institution;
  - (v) Florist shop;
  - (w) Funeral home or mortuary;
  - (x) Furniture store, including new and used home furnishings, appliances, sewing machines, wall and floor coverings;
  - (y) Gift or novelty shop;
  - (z) Grocery; meat market, fruit and vegetable store, supermarket;
  - (aa) Hardware store, paint store, sporting goods store;
  - (bb) Home office;
  - (cc) Indoor theater;
  - (dd) Jewelry store;
  - (ee) Laundry pickup store; self-service laundry; self-service dry cleaner;
  - (ff) Locksmith;
  - (gg) Movie theater;
  - (hh) Municipal or governmental building;
  - (ii) Music stores; record sales, instrument sales and service, music lessons;
  - (jj) Pawn shop;
  - (kk) Pet stores, provided that boarding of animals is limited to those currently for sale on the premises; dog grooming;
  - (ll) Photography studio;
  - (mm) Post office; telegraphic office; bus depot;
  - (nn) Private club or lodge;
  - (oo) Professional/scientific/medical laboratories and studios not utilizing hazardous or flammable materials;
  - (pp) Public library or other public cultural facility;
  - (qq) Publicly owned recreation facility;
  - (rr) Public parking area;
  - (ss) Religious institution;
  - (tt) Restaurant, but not including drive-in establishments; liquor sales, subject to applicable regulations and such permits as may be required by law;
  - (uu) Shoe repair shop;
  - (vv) Soda fountain or ice cream parlor;
  - (ww) Tavern, night club, liquor bar, cocktail lounge, all subject to applicable regulations, licenses and such permits as may be required by law;
  - (xx) Trade or business school;
  - (yy) Wireless telecommunications facility, subject to the provisions of Chapter 1150;
  - (zz) Gun shop, with no shooting range;
  - (aaa) Video rental.
- (Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05; Ord. A-2508. Passed 2-26-07. Ord. A-2642. Passed 5-24-10.)

**1125.02 CONDITIONAL USES.**

The following uses shall be permitted only if expressly authorized by the Board and subject to the provisions of Chapter 1147:

- (a) Billiard room or pool hall; commercial recreation facility;
- (b) Commercial parking facility, subject to the provisions of Section 1147.37;
- (c) Dry cleaning establishment using not more than two clothes cleaning units, neither of which shall have a rated capacity of more than sixty pounds;
- (d) Home occupation;
- (e) Motor vehicle customizing shop;
- (f) Motor vehicle full service station, motor vehicle sales, rental or lease and public garage, but not including body and fender work or painting;
- (g) Motor vehicle self service station/mini market;
- (h) Motor vehicle wash facility;
- (i) Off-street parking accessory to any principal use, excluding a dwelling, not located on the same lot as the principal use;
- (j) Outdoor storage, subject to the provision of Section 1147.38;
- (k) Printing, photocopying, silk screening, graphic arts business primarily retail in nature, serving the consumer directly and not occupying more than 2,000 square feet of floor area for printing presses and/or production equipment;
- (l) Public utility building necessary for the furnishing of adequate service to the area, but not including a garage, outdoor storage yard or warehouse;
- (m) Single-family dwellings, two-family dwellings and multi-family dwellings above the first floor (street level) when the first floor is used as a nonresidential use subject to the requirements of Section 1147.28.

(Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05.)

**1125.03 ACCESSORY USES.**

Accessory uses, buildings and structures customarily incidental to any use listed as a permitted principal or conditional use in this chapter shall be permitted in conjunction with such use, provided that such buildings comply with yard setbacks of this district and that the total ground floor area of such accessory uses, buildings and structures does not exceed ten percent of the lot area nor fifty percent of the ground floor area of the principal building, including:

- (a) Architectural canopy sign, subject to the provisions of Chapter 1149;
- (b) Directional sign, subject to the provisions of Chapter 1149;
- (c) Downtown sidewalk displays;
- (d) Off-street parking facility;
- (e) On premises sign, subject to the provisions of Chapter 1149;
- (f) Political sign;
- (g) Portable or temporary sign, subject to the provisions of Chapter 1149;
- (h) Projecting sign, subject to the provisions of Chapter 1149;
- (i) Real estate sign, nameplate and institutional bulletin board, subject to the provisions of Chapter 1149;
- (j) Temporary building for uses incidental to construction;
- (k) Temporary structure for uses related to labor disputes.

(Ord. A-2248. Passed 4-9-01.)

**1125.04 REQUIRED CONDITIONS.**

All businesses, services or processing shall be conducted wholly within a completely enclosed building, except for off-street parking and conditionally approved outdoor storage. Sidewalk sales and displays are permitted as regulated by Section 1125.08. All products produced on the lot, whether primary or incidental, shall be sold at retail primarily on the lot where produced. Processes and equipment employed and goods produced or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water-carried waste.

(Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05.)

**1125.05 HEIGHT REGULATIONS.**

No building or structure shall exceed the following height, except as provided in Chapter 1107:

- (a) Principal uses  
(except as provided in Section 1128.01).....3 stories, but not to exceed 60 feet
  - (b) Accessory uses .....2 stories, but not to exceed 25 feet
- (Ord. A-2248. Passed 4-9-01.)

**1125.06 LOT AREA, FRONTAGE AND YARD REQUIREMENTS.**

The following minimum requirements shall apply, except as provided in Chapter 1107:

- Business uses .....none
- Various uses approved by the Board of Appeals as conditional uses (business first floor, residential above):
- Lot area .....none
- Lot area per dwelling unit .....1,000 sq. ft. per bedroom
- Lot width.....none
- Front yard depth.....none
- Side yard width .....none
- Rear yard depth.....none

(Ord. A-2248. Passed 4-9-01.)

**1125.07 MINIMUM FLOOR AREA.**

Dwellings, if approved by the Board of Appeals as a conditional use, shall have a minimum floor area (in square feet) as follows:

Multi-family dwelling (dwellings in mixed use structure):

- Efficiency/studio .....500
- One bedroom.....600
- Two bedrooms .....800
- Three bedrooms .....1,000
- Four or more bedrooms.....1,200

(Ord. A-2248. Passed 4-9-01.)

**1125.08 DOWNTOWN SIDEWALK DISPLAYS.**

Sidewalk display of retail goods, wares, merchandise and services shall be permitted as an accessory use subject to the following requirements:

- (a) The goods, wares, merchandise and services offered shall be limited to those permitted as a principal use in the B-5 District.
- (b) The hours of such display shall be limited from 9:00 a.m. to 9:00 p.m.
- (c) A minimum clear distance of six (6) feet between the display of such retail goods, wares, merchandise and services and the backside of the curb, or any public facility or appurtenance including, but not limited to, fire hydrants, utility poles, park benches, street trees, traffic signs, and trash receptacles shall be maintained.
- (d) Any sidewalk area designated for off-street loading and parking shall not be used for such display.
- (e) The exterior open space around the principal building shall be maintained in a clean, safe and sanitary condition as specified in Section 1313.17 of the Code of Ordinances.
- (f) A merchant may not occupy another merchant's sidewalk area with such display; all displays shall be limited to the goods, wares, merchandise and services offered for sale by the merchant adjacent to the sidewalk area.
- (g) No display shall be attached, chained, or in any manner affixed to any tree, post, sign, or other fixture, curb or sidewalk within or near the permitted area.
- (h) Service of food and beverages shall be permitted in the display area. However, no cooking or food preparation shall be permitted, except that such activities may be authorized by the City Manager in conjunction with City-recognized events open to the general public.
- (i) The City Manager may further limit the type and time period of such display by reason of inclement weather or other conditions which may cause risk to public health, safety and general welfare.

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1127**

### **I-1 Light Industrial District**

- 1127.001 Intent.
- 1127.01 Principal uses.
- 1127.02 Conditional uses.
- 1127.03 Accessory uses.
- 1127.04 Prohibited uses.
- 1127.05 Required conditions.
- 1127.06 Height regulations.
- 1127.07 Lot area, frontage and yard requirements.

#### **1127.001 INTENT.**

The primary intent of the I-1 Light Industrial District is to designate certain land areas for light industrial development, wholesaling, warehousing uses, limited manufacturing, and incidental sales and offices. These areas are to be reserved primarily for light industrial and related development to provide suitable sites for such activity.

(Ord. A-2248. Passed 4-9-01.)

#### **1127.01 PRINCIPAL USES.**

No building, structure or land shall be erected, altered or used which is arranged or designed for other than one or more of the following uses, except as provided herein and in Chapter 1109:

- (a) Adult uses or sexually oriented businesses, provided that all such uses comply with Chapter 701;
- (b) Animal hospital or kennel;
- (c) Broadcasting studio for radio and/or television productions;
- (d) Clothing manufacturing;
- (e) Commercial laundry; commercial dry cleaning establishment;
- (f) Finishing, custom: furniture and fixtures;
- (g) Furniture manufacturing, assembly and repair;
- (h) Manufacturing of plastic and paper-based bags, boxes, and containers;
- (i) Manufacturing, assembling, or repairing of electrical and electronic products, components and equipment;
- (j) Medical, dental, optical, orthopedic and similar appliance manufacturing;
- (k) Motor vehicle body shop;
- (l) Motor vehicle repair garage;
- (m) Off-premises sign, subject to the provisions of Chapter 1149;
- (n) Parcel delivery terminal;
- (o) Pharmaceutical manufacturing and testing;
- (p) Precision instrument manufacturing and testing;
- (q) Printing and publishing;
- (r) Public utility building;

- (s) Religious institution;
  - (t) Research laboratories;
  - (u) Retail lumber yard, but not including mill work;
  - (v) Retail sales and offices that are incidental and subordinate to any of the above uses, subject to applicable off-street loading and parking requirements as provided for in Chapter 1141;
  - (w) Self service storage facility;
  - (x) Warehouse for the storage of merchandise and materials; trucking or motor freight terminal; carting, expressing or hauling establishment;
  - (y) Wholesale business; mail order house;
  - (z) Wireless telecommunications facility, subject to the provisions of Chapter 1150
  - (aa) Indoor commercial recreation facility.
- (Ord. A-2248. Passed 4-9-01; Ord. A-2515. Passed 5-29-07. Ord. A-2642. Passed 5-24-10.)

### **1127.02 CONDITIONAL USES.**

The following uses shall be permitted only if expressly authorized by the Board of Appeals and subject to the provisions of Chapter 1147:

- (a) Landscaping service and retail business, subject to the provisions of Section 1147.44;
  - (b) Motor vehicle full service station;
  - (c) Municipal or governmental building;
  - (d) Off-street parking accessory to any principal use, excluding a dwelling, not located on the same lot as the principal use;
  - (e) Other light processing and assembly type of uses not otherwise accommodated as principal uses, which, in the opinion of the Board, are similar to the other I-1 permitted principal uses;
  - (f) Outdoor storage, subject to the provisions of Section 1147.38;
  - (g) Radio, television or telephonic communication transmitting tower;
  - (h) Wireless telecommunications facility, subject to the provisions of Chapter 1150.
- (Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05. Ord. A-2642. Passed 5-24-10.)

### **1127.03 ACCESSORY USES.**

Accessory uses, buildings and structures customarily incidental to any use listed as a permitted principal or conditional use in this chapter shall be permitted in conjunction with such use, provided that such buildings comply with yard setbacks of this district and that the total ground floor area of such accessory uses, buildings and structures does not exceed ten percent of the lot area nor fifty percent of the ground floor area of the principal building, including:

- (a) Architectural canopy sign, subject to the provisions of Chapter 1149;
- (b) Directional sign, subject to the provisions of Chapter 1149;
- (c) Interstate sign, subject to the provisions of Chapter 1149;
- (d) Off-street parking facility;
- (e) On-premises sign, subject to the provisions of Chapter 1149;
- (f) Outdoor displays;
- (g) Political sign;
- (h) Portable or temporary sign, subject to the provisions of Chapter 1149;
- (i) Private garage; private parking area;
- (j) Projecting sign, subject to the provisions of Chapter 1149;

- (k) Real estate sign, nameplate and institutional bulletin board, subject to the provisions of Chapter 1149;
  - (l) Temporary building for uses incident to construction;
  - (m) Temporary structures for uses related to labor disputes.
- (Ord. A-2248. Passed 4-9-01.)

**1127.04 PROHIBITED USES.**

- (a) Dwellings and residences of any kind; schools, hospitals, clinics, nursing homes and other institutions for human care are prohibited. Any use legally existing at the time of the adoption of this Zoning Code shall be classified as a legal nonconforming use.
  - (b) No use shall be permitted or authorized to be established or maintained which is or may become hazardous, noxious or objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water-carried waste.
- (Ord. A-2248. Passed 4-9-01.)

**1127.05 REQUIRED CONDITIONS.**

All businesses, services or processing, shall be conducted wholly within a completely enclosed building, except for off-street parking, the dispensing of fuels to motor vehicles, conditionally approved outdoor storage, and the display of motor vehicles, farm implements or mobile homes in operative condition.

(Ord. A-2248. Passed 4-9-01.)

**1127.06 HEIGHT REGULATIONS.**

No building or structure shall exceed the following height, except as provided in Chapter 1107:  
 All uses (except as provided in Chapter 1147)....35 feet

(Ord. A-2248. Passed 4-9-01.)

**1127.07 LOT AREA, FRONTAGE AND YARD REQUIREMENTS.**

The following minimum requirements shall apply, except as provided in Chapter 1107:

	Front Yard Depth (ft.)	Side Yard Width Each (ft.)	Rear Yard Depth (ft.)
All uses (except as provided in Chapter 1147)	20	25	20

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1131**

### **I-2 General Industrial District**

- 1131.001 Intent.
- 1131.01 Principal uses.
- 1131.02 Conditional uses.
- 1131.03 Accessory uses.
- 1131.04 Prohibited uses.
- 1131.05 Required conditions.
- 1131.06 Height regulations.
- 1131.07 Lot area, frontage and yard requirements.

#### **1131.001 INTENT.**

The primary intent of the I-2 General Industrial District is to designate certain land areas for general industrial, manufacturing, processing and related operations. These areas are to be reserved primarily for general industrial and related development to provide suitable sites for such activity.

(Ord. A-2248. Passed 4-9-01.)

#### **1131.01 PRINCIPAL USES.**

No building, structure or land shall be erected, altered or used which is arranged or designed for other than one or more of the following uses, except as provided herein and in Chapter 1109:

- (a) Adult uses or sexually oriented business, provided that all such uses comply with Chapter 701;
- (b) Any industrial use conducted entirely within an enclosed building of any size for the manufacturing, fabricating, processing, heavy repair, servicing or storing of motor vehicles, equipment, raw materials or manufactured products, provided that all such uses comply with the standards in Chapter 1143;
- (c) Business use extensions, as regulated by Section 1107.23;
- (d) Commercial laundry; commercial dry cleaning establishment;
- (e) Correctional facility;
- (f) Experimental film or testing laboratory;
- (g) Motor vehicle body shop;
- (h) Motor vehicle repair garage;
- (i) Off-premises sign, subject to the provisions of Chapter 1149;
- (j) Parcel delivery terminal;
- (k) Printing and publishing;
- (l) Public utility building, but not including outdoor storage yard;
- (m) Religious institution;
- (n) Retail sales and offices that are incidental and subordinate to any of the above uses, subject to applicable off-street loading and parking requirements as provided for in Chapter 1141;
- (o) Warehouse for the storage of merchandise and materials; trucking or motor freight terminal; carting, expressing or hauling establishment;
- (p) Wholesale business; mail order house;

- (q) Wireless telecommunications facility, subject to the provisions of Chapter 1150.  
(Ord. A-2248. Passed 4-9-01.)

### **1131.02 CONDITIONAL USES.**

The following uses shall be permitted only if expressly authorized by the Board of Appeals and subject to the provisions of Chapter 1147:

- (a) Any industrial use which requires both buildings and open area for the manufacturing, fabricating, processing, heavy repair, servicing or storing of motor vehicles, equipment, raw materials or manufactured products, provided that all such uses shall comply with the standards in Chapter 1143;
- (b) Contractor's storage yard; building material yard;
- (c) Extraction of gas;
- (d) Heliport;
- (e) Junk yard; motor vehicle wrecking yard;
- (f) Landscaping service and retail business, subject to the provisions of Section 1147.44;
- (g) Lumber yard, including mill work;
- (h) Municipal or governmental building;
- (i) Off-street parking accessory to any principal use, excluding a dwelling, not located on the same lot as the principal use;
- (j) Outdoor storage, subject to the provisions of Section 1147.38;
- (k) Radio, television or telephonic communication transmitting tower;
- (l) Wireless telecommunications facility, subject to the provisions of Chapter 1150.  
(Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05. Ord. A-2642. Passed 5-24-10.)

### **1131.03 ACCESSORY USES.**

Accessory uses, buildings and structures customarily incidental to any use in Sections 1131.01 and 1131.02 shall be permitted in conjunction with such use, including:

- (a) Architectural canopy sign, subject to the provisions of Chapter 1149;
- (b) Directional sign, subject to the provisions of Chapter 1149;
- (c) Interstate sign, subject to the provisions of Chapter 1149;
- (d) Off-street parking facility;
- (e) On-premises sign, subject to the provisions of Chapter 1149;
- (f) Outdoor displays;
- (g) Political sign;
- (h) Portable or temporary sign, subject to the provisions of Chapter 1149;
- (i) Private garage; private parking area;
- (j) Projecting sign, subject to the provisions of Chapter 1149;
- (k) Real estate sign, nameplate and institutional bulletin board, subject to the provisions of Chapter 1149;
- (l) Temporary building for uses incident to construction;
- (m) Temporary structure for uses related to labor disputes.  
(Ord. A-2248. Passed 4-9-01.)

**1131.04 PROHIBITED USES.**

Dwellings and residences of any kind and, except where incidental and accessory to a principal use, schools, hospitals, clinics, nursing homes and other institutions for human care are prohibited. Any use legally existing at the time of the adoption of this Zoning Code shall be classified as a legal nonconforming use.

(Ord. A-2248. Passed 4-9-01.)

**1131.05 REQUIRED CONDITIONS.**

All businesses, services or processing shall be conducted wholly within a completely enclosed building, except for, (1) off-street parking, (2) uses permitted in open areas as provided in Section 1131.01, (3) conditionally approved outdoor storage, and (4) outdoor displays.

(Ord. A-2248. Passed 4-9-01.)

**1131.06 HEIGHT REGULATIONS.**

No building or structure shall exceed the following height, except as provided in Chapter 1107:

- All uses (except as provided in Chapter 1147)
  - Within 200 feet of any N, S or R District - 50 feet;
  - All other locations - the distance measured from the centerline of the nearest adjoining street to the closest point of the proposed building or structure.

(Ord. A-2248. Passed 4-9-01; Ord. A-2288. Passed 1-14-02)

**1131.07 LOT AREA, FRONTAGE AND YARD REQUIREMENTS.**

The following minimum requirements shall apply, except as provided in Chapter 1107:

	Lot Width (ft.)	Front Yard Depth (ft.)	Side Yard Depth (ft.)	Rear Yard Depth (ft.)
All uses (except as provided in Chapter 1147)	N/A	20	20	20

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1133 Site Plan Approval**

- 1133.01 Intent.
- 1133.02 Submission of plans.
- 1133.03 Approval required.
- 1133.04 Review of plan.
- 1133.05 Contents of plan.
- 1133.06 Multiple uses on one lot; when planned development is required.
- 1133.07 Amendments and revisions to plan.
- 1133.08 Time limitation of plan approval.
- 1133.09 Fees.
- 1133.10 Enforcement.

### **1133.01 INTENT.**

The intent of the site plan approval process is to protect the health, safety and welfare of the public by ensuring better development through the review and approval of site plans relating to the layout, design and construction of buildings and structures on a site.

(Ord. A-2248. Passed 4-9-01.)

### **1133.02 SUBMISSION OF PLANS.**

A site plan shall be submitted to the City for approval of:

- (a) Any new construction, or addition, of any principally or conditionally permitted use, except single-family and two-family dwellings.
- (b) Any change in an existing commercial or industrial use to another commercial or industrial use.

(Ord. A-2248. Passed 4-9-01.)

### **1133.03 APPROVAL REQUIRED.**

No person shall commence work on any site or any buildings requiring site plan approval, and no permits shall be issued, until after site plan approval has been granted, except as provided in Section 1133.04(f) of the Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

### **1133.04 REVIEW OF PLAN.**

- (a) A site plan shall be submitted for review in accordance with the provisions of this Zoning Code and other such rules and procedures established by the City.
- (b) Five copies of the site plan to be reviewed shall be submitted to the Community Development Office.
- (c) Site plan review shall be conducted by the City Manager and other administrative personnel and technical personnel as may be deemed necessary to properly evaluate a

proposed plan. Said review shall be performed within ten working days from the submittal of the site plan.

- (d) After reviewing the site plan, the City Manager (or authorized representative) shall, within five working days, provide the developer a written list of comments that need to be addressed, or conditions needed to be complied with, prior to the approval of the site plan.
- (e) If there are no comments or conditions other than those pertaining to performance surety, public improvement construction or obtaining other State and local permits, then the developer's site plan will be approved, and written approval will be provided by the City Manager (or authorized representative).
- (f) If there are comments or conditions other than those mentioned in subsection (e) hereof, then the developer may proceed in one of the following ways:
  - (1) Make the necessary changes to address the comments and conditions and then either re-submit the site plan, with the necessary changes, or provide written confirmation that the necessary changes will be made.
  - (2) Not make the necessary changes to address the comments and conditions and submit an application to the Zoning Board of Appeals for variance approval.
- (g) A public hearing by the Board of Appeals or Planning Commission required as part of any proposed construction or addition regulated by Chapter 1133 of the Zoning Code, shall not delay the administrative review and approval of any proposed construction or addition regulated by Chapter 1133, but unrelated to such public hearing.

(Ord. A-2248. Passed 4-9-01.)

### **1133.05 CONTENTS OF PLAN.**

A site plan shall contain the following:

- (a) The accurate dimensions and size of the site area, as well as the topography of the site and immediately adjoining lands, at two-foot intervals;
- (b) The locations and dimensions of all existing and proposed streets, courts and pedestrian walkways within and abutting the site, as well as the location, size and means of ingress and egress of all off-street loading and parking areas. The location and arrangements of the parking areas and access shall also be shown, and the means of defining parking areas and access lanes by means of curbs, bumper blocks, railroad ties or other physical obstructions, or other methods approved by the City Engineer, shall be illustrated. All proposed signs shall be shown, detailing location, dimensions, height and, where applicable, verbiage;
- (c) The location, size and height of all existing and proposed buildings and structures within the site and on adjoining lands, as well as the existing or proposed use of such buildings or structures, including the number, type and floor area of commercial uses to be accommodated in each;
- (d) A complete utilities plan, providing electric, gas, telephone, cable television, water and sanitary sewer services, including connections to existing service lines and existing and proposed easements. Such plans shall comply with the City engineering specifications;

- (e) The location, size and type of fire hydrants; building plans; fire suppression system plans; Fire Department access areas; and fire lane signage. Such plans shall comply with State and local Building and Fire Codes and shall be approved by the Fire Chief (or authorized representative).
- (f) A grading and drainage plan to illustrate the proposed grading of the site and methods used to comply with City engineering stormwater runoff, erosion and sediment control specifications;
- (g) A landscaping plan showing the location and types of screen planting, buffer areas, man-made screening and other features which shall enhance the site;
- (h) An exterior lighting plan showing the location of lighting fixtures and their type and output, as well as the proposed radius of the lighted area for each fixture;
- (i) The proposed internal vehicular circulation of access roads, delineated and related to connections with public streets. Existing and proposed traffic patterns and volumes and the anticipated effect on existing public streets serving the site shall be provided for City engineering review. Complexes shall provide curb or other types of internal access lane separations for parking spaces to assist in internal circulation and parking area delineations;
- (j) Delineation of the division of the development into sections if staged construction is contemplated, as well as which parking areas and other improvements shall be provided for each stage of development; and
- (k) Proposed complexes designed for condominium, cooperative or other multiple ownership arrangements, indicating proposed individual, joint or common ownership areas to assure maintenance and operation of common features, such as lighting and parking facilities. Any arrangements requiring subdivision approval shall also be subject to Chapter 1161.

(Ord. A-2248. Passed 4-9-01.)

**1133.06 MULTIPLE USES ON ONE LOT; WHEN PLANNED DEVELOPMENT IS REQUIRED.**

- (a) More than one multi-family residential, commercial, industrial or institutional building, structure or use may be placed upon a single lot or tract, in accordance with the provisions of this chapter, in any zoning district that permits such uses, provided that:
  - (1) The tract or lot has existing frontage along a public street meeting City specifications or the development includes proposed improvements to comply with the City street specifications;
  - (2) Lot area, frontage and yard requirements are met in the zoning district in which the buildings, structures, or uses are to be located.
- (b) Developments which do not meet minimum lot area, frontage or yard requirements shall be developed in accordance with the planned development provisions of Chapter 1144, 1145 or 1146.

(Ord. A-2248. Passed 4-9-01.)

**1133.07 AMENDMENTS AND REVISIONS TO PLAN.**

All amendments or revisions to approved site plans shall be referred to the City Manager, who shall make a determination as to whether the amendment or revision is or is not consistent with the intent of the approved site plan. Amendments or revisions that are determined to be inconsistent with the approved site plan shall be resubmitted in accordance with Section 1133.02 for appropriate reviews.

(Ord. A-2248. Passed 4-9-01.)

**1133.08 TIME LIMITATION OF PLAN APPROVAL.**

Section 1309.07 of the Code of Ordinances shall govern all approved site plans; construction must commence within six months of plan approval and be completed within two years of plan approval. All other provisions of Section 1309.07, including time extension allowances, shall also apply to site plans.

(Ord. A-2248. Passed 4-9-01.)

**1133.09 FEES.**

Site plan review fees shall be determined by the following formula: Seventy-seven dollars and twenty-five cents (\$77.25) base fee plus one dollar and five cents (\$1.05) for every 100 square feet of building area. In no case shall the site plan review fee for any development have a fee in excess of one thousand dollars (\$1,000).

(Ord. A-2248. Passed 4-9-01; Ord. A-2468; Passed 1-9-06.)

**1133.10 ENFORCEMENT.**

Enforcement of the approved site plan shall be in accordance with Chapter 1155, with specific application of Section 1155.03. Upon notice from the Building Inspector that work on any building or structure is being done contrary to the provisions of this chapter, such work shall be immediately stopped. Such notice shall be in writing and shall state the reason for stopping the work and the conditions under which the work may be resumed. Such notice shall be delivered to the owner of the property or to his or her agent and to the person in charge of the work at the site.

(Ord. A-2248. Passed 4-9-01.)

## CHAPTER 1141 Off-Street Loading and Parking

- 1141.001 Intent.
- 1141.01 Off-street loading.
- 1141.02 Number of parking spaces required.
- 1141.03 Uses not listed.
- 1141.04 Location of parking spaces.
- 1141.05 Collective use of off-street parking facilities.
- 1141.06 Units of measurement.
- 1141.07 Minimum parking space and driveway aisle dimensions.
- 1141.08 Surfacing.
- 1141.09 Separation from public right-of-way.
- 1141.10 Separation from adjoining properties.
- 1141.11 Screening adjoining residential districts.
- 1141.12 Lighting.
- 1141.13 Drainage.
- 1141.14 Interior design.
- 1141.15 Marking.
- 1141.16 Use of off-street parking areas.
- 1141.17 Changes in use; addition and enlargements.
- 1141.18 Exemption for Court Square Business District.

### **1141.001 INTENT.**

The intent of the off-street loading and parking regulations is to protect the public health, safety and welfare by insuring that all land uses have adequate amounts of off-street loading and parking areas in order to not create traffic hazards on public streets.

(Ord. A-2248. Passed 4-9-01.)

### **1141.01 OFF-STREET LOADING.**

- (a) Off-street loading and unloading berths shall be provided on the same lot as the use to which they are accessory in accordance with the following schedule:

Gross Floor Area (sq. ft.)	Loading and Unloading Berths Required	
Retail stores, department stores, wholesale establishments, storage uses and other business uses	3,000 to 15,000 15,001 to 40,000 Each 25,000 additional	1 2 1 additional
Industrial uses	15,000 or less 15,001 to 40,000 40,001 to 100,000	1 2 3

Each 40,000 additional                      1 additional

- (b) Loading spaces shall be on the same lot with the building they are intended to serve and may occupy all or any part of any required yard, provided that no such space shall be closer than fifty feet from any other lot located in any S or R District unless wholly within a completely enclosed building or enclosed on all sides by a well-maintained wall or uniformly painted solid fence not less than six feet in height.
- (c) Loading spaces shall be constructed with asphalt, concrete or any other dust-free surface complying with City engineering standards.
- (d) Loading spaces that are constructed below grade shall have a stormwater drainage system that complies with City engineering standards.

(Ord. A-2248. Passed 4-9-01.)

**1141.02 NUMBER OF PARKING SPACES REQUIRED.**

In any district, in connection with every principal or conditional use, there shall be provided off-street parking spaces in accordance with the following schedule:

<u>Use</u>	<u>Number of Spaces</u>
Billiard room; pool hall	1 for each 200 sq. ft. of floor area
Golf course	6 per hole
Golf driving range	1.5 per tee
Boarding or lodging house	1 for each sleeping room
Bowling lanes	5 for each lane
Church or temple; auditorium; arena stadium; dance or assembly hall; unenclosed theater	1 for each 5 seats
Dwelling:    Single-family Two family Multi-family Home occupation	2 2 for each unit 2 for each unit 1 additional
Middle schools; elementary schools; pre-schools	1 for each 850 sq. ft. of classroom space, plus 1 for each 100 sq. ft. of office space and 1 for each 50 sq. ft. of assembly space
Emergency shelters	1 for each 400 sq. ft. of floor area
Funeral home or mortuary	1 for each 50 sq. ft of floor area
Group homes	1 for every 2 group home residents, plus 1 for each employee in the largest work shift

Hotel; motel or motor hotel; tourist home	1 for each living or sleeping unit, plus 1 for each 100 sq. ft. of office space and 1 for each 50 sq. ft. of restaurant and lounge space
Hospitals	1 for each 80 sq. ft. of sleeping space, plus 1 for each 100 sq. ft. of office space and 1 for each 150 sq. ft. of treatment space
Senior high schools	1 for each 60 sq. ft. of classroom space, plus 1 for each 100 sq. ft. of office space
Library or similar cultural facility	1 for each 500 sq. ft. of floor area
Motor vehicle sales, rental or lease	1 for each 400 sq. ft. of indoor and outdoor vehicle display area
Movie theater	1 for each 4 seats
Mobile home park; public camp	2 for each mobile home unit space or camping unit space
Nursing home	1 for each 500 sq. ft. of sleeping space, plus 1 for each 100 sq. ft. of office space
Passenger transportation terminal	1 for each 3 seats in the waiting room
Private club or lounge	1 for each 125 sq. ft. of floor area
Private or public noncommercial recreation facility	1 for each 1,000 sq. ft.
All office uses	1 for each 300 sq. ft. of floor area
Public recreation facility	1 for each 1,000 sq. ft.
Broadcasting studio for radio and/or television productions	1 for each 1,000 sq. ft. of floor area
Restaurant or tavern; nightclub and cocktail lounge	1 for each 2 seats; with a minimum 15 spaces for drive-in restaurants
Retail business, service establishment and business office under 2,000 sq. ft. and over in floor area	1 for each 300 sq. ft. of floor area
Retail business, service establishment and business office 2,000 sq. ft. and over in floor area	1 for each 200 sq. ft. of floor area
Municipal or government building	1 for each 400 sq. ft. of floor area

Post office	1 for each 400 sq. ft. of floor area
Parcel delivery terminal	1 for each 500 sq. ft. of floor area
Universities, colleges, vocational/technical schools	1 for each 100 sq. ft. of classroom space, plus 1 for each 50 sq. ft. of assembly space
Wholesale business; warehouse; freight terminal; manufacturing or industrial use; junk yard; public utility facility (except as a business office)	1 for each 3,000 sq. ft. of floor area
Self-service storage facility	1 for each 30 storage units
Nursery or greenhouse	1 for each 400 sq. ft. or indoor and outdoor display area

(Ord. A-2248. Passed 4-9-01.)

**1141.03 USES NOT LISTED.**

For uses not listed elsewhere in this chapter, these shall be provided off-street parking spaces in accordance with the following schedule:

<u>Use</u>	<u>Number of Spaces</u>
Any business not specifically stated or implied elsewhere in this Zoning Code.	As determined by the Board. The determination shall be based upon the expected number of parking spaces the particular type of business use would require to satisfy estimated peak parking load requirements.

(Ord. A-2248. Passed 4-9-01.)

**1141.04 LOCATION OF PARKING SPACES.**

- (a) Off-street parking spaces accessory to a dwelling shall be on the same lot as the dwelling.
- (b) In the O-1, B-1, B-2, I-1 and I-2 Districts, off-street parking spaces may be located in the required front yard on lots where business or industry is located.

(Ord. A-2248. Passed 4-9-01.)

**1141.05 COLLECTIVE USE OF OFF-STREET PARKING FACILITIES.**

Nothing in this chapter shall be construed to prevent provision of collective off-street parking facilities for two or more buildings or uses. In such cases of collective use, the following regulations shall apply:

- (a) Collective Use by Commercial and Industrial Facilities. Two or more attached commercial or industrial uses may provide collective off-street parking at a rate of not less than ninety percent (90%) of the sum of the spaces required for the various uses computed separately.
- (b) Collective Use by Residential Facilities. Two or more attached residential uses shall not provide collective off-street parking at a reduced rate, except as may be provided for in Chapter 1144 of the Zoning Code.
- (c) Collective Use by Religious Institutions. A religious institution requiring parking area at times when nearby uses do not need their parking facilities may, by agreement approved by the Board, utilize such facilities in lieu of providing its own parking facilities. A similar agreement, approved by the Board, may be made by uses wanting to utilize religious institution parking areas.

(Ord. A-2248. Passed 4-9-01.)

**1141.06 UNITS OF MEASUREMENT.**

For purposes of this chapter, the following units of measurement shall apply:

- (a) In the case of offices, merchandising or service types of uses, "floor area" means the gross floor area used or intended to be used by tenants or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for the display or sale of merchandise. It does not include areas used principally for non-public purposes, such as storage, incidental repair and processing or packaging of merchandise, for show windows, for offices incidental to the management of stores or buildings, for employee lounges and for utility services.
- (b) In hospitals, bassinets shall not be counted as beds.
- (c) In places of public assembly in which patrons or spectators occupy benches, pews or other such seating facilities, each twenty inches of such seating facilities shall be counted as one seat.

(Ord. A-2248. Passed 4-9-01.)

**1141.07 MINIMUM PARKING SPACE AND DRIVEWAY AISLE DIMENSIONS.**

The following minimum dimensions shall apply to all parking spaces and driveway aisles:

- (a) Handicap Spaces. Where provided, handicap parking spaces shall not be less than eight feet in width, with an accompanying 5 foot access aisle, and twenty feet in length. Two accessible parking spaces may share a common access aisle
- (b) Standard Width and Length. Parking spaces must have, at a minimum, the following dimensions:

Dimension	Parallel	30°	45°	60°	90°
Space width (ft.)	10	9	9	9	9
Space length (ft.)	22	18	20	21	19

Perpendicular and angular parking spaces for medical facilities, eating places, banking / financial institutions and/or service stations / convenience stores shall not be less than ten feet in width and twenty feet in length..

(c) Driveway Aisles. Driveway aisles shall have the following minimum dimensions:

0 degree Parking (Parallel)	60 degree Parking
One-Way .....12 feet	One-Way .....18 feet
Two-Way .....24 feet	Two-Way .....24 feet
45 degree Parking	90 degree Parking
One-Way .....13 feet	One-Way .....25 feet
Two-Way .....24 feet	Two-Way .....25 feet

(Ord. A-2248. Passed 4-9-01 and Ord. 2419. Passed 1-24-05)

#### **1141.08 SURFACING.**

All open off-street parking and loading facilities and vehicular use areas, except in the N, S and R Districts, shall be graded and provided with a paved surface, and shall comply with standards of the City Engineer. Within the N, S and R Districts, no parking surface shall cover more than thirty-five percent (35%) of the front yard.

(Ord. A-2248. Passed 4-9-01.)

#### **1141.09 SEPARATION FROM PUBLIC RIGHT-OF-WAY.**

In the O-1, B-1, B-2, I-1 and I-2 Districts, all open off-street parking facilities located within a required front yard shall be separated from public sidewalks or the existing right-of-way, whichever is greater, by a grass area at least ten feet in width. In this grass area one tree for every thirty feet of street frontage shall be planted and maintained. A minimum six inch barrier (curb) shall be provided on the parking lot side of the required grass area.

(Ord. A-2248. Passed 4-9-01.)

#### **1141.10 SEPARATION FROM ADJOINING PROPERTIES.**

In the O-1, B-1, B-2, I-1 and I-2 districts, all open off-street parking facilities shall be separated from adjoining properties by a grass area of at least ten feet in width.

(Ord. A-2248. Passed 4-9-01.)

#### **1141.11 SCREENING ADJOINING RESIDENTIAL DISTRICTS.**

When any open off-street parking facility for more than five vehicles is adjacent an N, S or R District, an effective buffer or screen, consisting of a solid wall, fence or dense living hedge, shall be provided at the lot line to protect the privacy of the adjoining residential uses. Such wall, fence or hedge shall not be less than six feet in height.

(Ord. A-2248. Passed 4-9-01.)

#### **1141.12 LIGHTING.**

Any light used to illuminate off-street parking facilities shall be equipped with a suitable shielding designed to prevent glare on surrounding public or private property and pedestrian and vehicular traffic. Such light shall conform to the City Lighting Plan and be approved by the City Engineer.

(Ord. A-2248. Passed 4-9-01.)

**1141.13 DRAINAGE.**

All open off-street parking facilities shall be provided with adequate drainage facilities as approved by the City Engineer.

(Ord. A-2248. Passed 4-9-01.)

**1141.14 INTERIOR DESIGN.**

All parts of open off-street parking facilities which are unusable, either for parking or for traffic, shall be paved or landscaped and maintained with plantings of grass, flowers, shrubs, and at a minimum, one tree of at least 1-1/4 caliper or larger for every fifteen parking spaces. A minimum six inch barrier (curb) shall be provided to delineate such paving or landscaping.

(Ord. A-2248. Passed 4-9-01.)

**1141.15 MARKING.**

Designated parking spaces shall be marked on the surface of the parking area with paint or permanent marking materials and maintained in clearly visible condition.

(Ord. A-2248. Passed 4-9-01.)

**1141.16 USE OF OFF-STREET PARKING AREAS.**

- (a) The display for sale of all types of vehicles shall be prohibited within any off-street parking area, except for a private individual selling one personal vehicle from a residence at any one time.
- (b) The display, sales, or storage of any goods, wares, or merchandise shall not be permitted within any required off-street parking area.
- (c) The parking of buses and commercial vehicles shall conform to Section 351.14 of the traffic code.

(Ord. A-2248. Passed 4-9-01.)

**1141.17 CHANGES IN USE; ADDITION AND ENLARGEMENTS.**

Whenever, on any lot or in any building, there is a change in use or an increase in floor area or in the number of employees or other unit of measurement hereinbefore specified for the determination of required off-street parking spaces, additional off-street parking facilities shall be provided on the basis of the increased requirements of the new use or other unit of measurement, provided, however, that in case such change creates a need for an increase in off-street parking spaces of less than ten percent of the parking spaces previously required, no additional parking facilities shall be required.

(Ord. A-2248. Passed 4-9-01.)

**1141.18 EXEMPTION FOR COURT SQUARE BUSINESS DISTRICT.**

The off-street parking space requirements of this chapter shall not apply to business uses located in the B-5 Court Square Business District as shown on the Zoning Map, provided, however, that such spaces, if voluntarily established, shall comply with the requirements regarding development and maintenance. New residential uses in the B-5 District shall be required to provide at least one off-street parking space per unit, provided, however, that this parking space may be provided within 100 feet of the structure in which the unit is located.

(Ord. A-2248. Passed 4-9-01.)

## **CHAPTER 1142 Conversion of Dwellings**

- 1142.01 General requirements.
- 1142.02 Exceptions
- 1142.03 Board authorization.

### **1142.01 GENERAL REQUIREMENTS.**

The conversion of any building into a dwelling or the conversion of any dwelling to accommodate an increased number of dwelling units shall be permitted only within a district in which a new building for similar occupancy would be permitted under the Zoning Code, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling, floor area, dimensions of yards and other open spaces and off-street parking. No existing structure may be converted for use by more than four families.

(Ord. A-2248. Passed 4-9-01.)

### **1142.02 EXCEPTIONS.**

The district requirements with respect to yards and other open spaces shall not apply in cases where the conversion is part of a proposed Residential Planned Unit Development project meeting the requirements specified in Chapter 1144. Such yard and other open space requirements shall also not apply in cases where the conversion will not involve any major exterior structural changes, and as follows:

- (a) There is a shortage in the required dimensional area of each of not more than two such requirements as to yards and other spaces; or
- (b) In case the conversion will result in a lot area per dwelling unit at least twenty percent greater than that required for new buildings in the district.

(Ord. A-2248. Passed 4-9-01.)

### **1142.03 BOARD AUTHORIZATION.**

Any conversion which would result in one or more dwelling units containing less than 500 square feet of gross floor area shall be permitted only upon authorization by the Board of Appeals.

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1143**

### **Performance Standards**

- 1143.01 Conformance required.
- 1143.02 Enforcement.
- 1143.03 Definitions.
- 1143.04 Smoke.
- 1143.05 Particular matter.
- 1143.06 Odor.
- 1143.07 Fumes and gases.
- 1143.08 Heat and glare.
- 1143.09 Vibration.
- 1143.10 Noise.
- 1143.11 Fire hazards; flammable liquid storage.
- 1143.12 Liquid and solid waste.
- 1143.13 Radiation.
- 1143.14 Dust.
- 1143.15 Electromagnetic interference.

#### **1143.01 CONFORMANCE REQUIRED.**

No land or structure, in any district, shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard, including potential hazards; noise or vibration; smoke, dust, odor or other form of air pollution; heat, cold, dampness, electrical or other substance, condition or element (referred to herein as "dangerous or objectionable elements"); in such a manner or in such amount as to adversely affect the adjoining lots or surrounding area. However, any use permitted or not expressly prohibited by this chapter may be undertaken and maintained if it conforms to the provisions of this chapter.

(Ord. A-2248. Passed 4-9-01.)

#### **1143.02 ENFORCEMENT.**

Whenever it is alleged by a person aggrieved, or, in the opinion of the City Manager, an existing or proposed new use of land or a structure creates or is likely to create or otherwise produce dangerous or objectionable elements, the Board of Appeals shall make a preliminary investigation of the matter and shall forward its report, together with all preliminary findings and evidence, to the City Council. In the event that the Board concurs in the allegation or opinion that there exist or are likely to be created such dangerous or objectionable elements, it shall request the City Council to authorize the employment of a competent specialist or testing laboratory for the purpose of determining the nature and extent of such dangerous or objectionable elements and practicable means of assuring compliance with the provisions of this chapter. Upon receipt of the findings and recommendations of such specialist or laboratory, the Board may approve, partially approve or disapprove the measures recommended therein and

instruct the City Manager to proceed with the enforcement of such measures in accordance with the provisions of Chapter 1155. The City shall bear the costs of the various tests, consultant fees or other investigations which are required herein. However, the owner of the property under investigation shall reimburse the City for all such expenses in the case of a proposed new use or in the event that the existing operation or use of the property is found to be in violation of the provisions of this chapter by the Board, or, if contested, by a court of competent jurisdiction. Such reimbursement shall be made within thirty days from the date of the final Board ruling or court judgment.

(Ord. A-2248. Passed 4-9-01.)

### **1143.03 DEFINITIONS.**

As used in this chapter:

- (a) "Decibel" means a unit of measurement of the intensity of loudness of sound. Sound level meters are used to measure such intensities and are calibrated in decibels.
- (b) "Flash point" means the lowest temperature at which a combustible liquid under prescribed conditions will give off a flammable vapor which will burn momentarily using the closed cup method.
- (c) "Free burning" means a rate of combustion described by a material which burns actively and easily supports combustion.
- (d) "Intense burning" means a rate of combustion described by a material that burns with a high degree of activity and is consumed rapidly.
- (e) "Moderate burning" means a rate of combustion described by a material which supports combustion and is consumed slowly as it burns.
- (f) "Octave band" means a narrow range of sound frequencies which classify sounds according to pitch. In the octave band analyzer, the audible sound spectrum is divided into eight octave bands.
- (g) "Octave band analyzer" means an electrical device used with the sound level meter that sorts a complex noise or sound into the various octave bands.
- (h) "Particulate matter" means a finely divided liquid or solid material which is discharged and carried along in the air. This does not include water commonly called steam.
- (i) "Ringelmann number" means the number of the area on the Ringelmann Chart that most nearly matches the light-obscuring capacity of smoke. The Ringelmann Chart is described in the U.S. Bureau of Mines Information Circular 6888, on which are illustrated graduated shades of gray for use in estimating smoke density. Smoke below the density of Ringelmann No. 1 shall be considered no smoke or Ringelmann O.
- (j) "Slow burning" or "incombustible" means materials which do not in themselves constitute an active fuel for the spread of combustion during an exposure for five minutes to a temperature of 1,200 degrees Fahrenheit.
- (k) "Smoke" means a suspension of fine particles, excluding water droplets, in a gaseous plume, which obscures more or less the transmission of light.
- (l) "Smoke unit" means the number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once a minute during

the period of observation, and each reading shall then be multiplied by the time in minutes during which it is observed. The various products are then added together to give the total number of smoke units observed during the entire observation period.

- (m) "Vibration" means oscillatory motion transmitted through the ground.

(Ord. A-2248. Passed 4-9-01.)

#### **1143.04 SMOKE.**

For new use, the emission of more than seventy smoke units per hour per stack and emissions in excess of Ringelmann No. 2 are prohibited, except that for one hour during any twenty-four hour period this rate may be increased to eighty smoke units per hour per stack up to and including Ringelmann No. 3 for the purposes of process purging, soot blowing and fire cleaning. For a use existing at the time of the adoption of this chapter, the emission of more than ninety smoke units per hour per stack and emission in excess of Ringelmann No. 3 are prohibited, except that for a one-hour period during the twenty-four, this rate may be increased 120 smoke units per hour per stack, still at Ringelmann No. 3, for purposes of process purging, soot blowing and fire cleaning.

(Ord. A-2248. Passed 4-9-01.)

#### **1143.05 PARTICULAR MATTER.**

The rate of emission of particulate matter from an individual process within the boundaries of any lot shall not exceed a figure of 0.06 pounds per 1,000 pounds of effluent gas for a new use, or 0.20 pounds per 1,000 pounds of effluent gas for a use existing at the time of the adoption of this chapter. For both such new and existing uses, not more than fifty percent by weight of particles larger than forty-four microns (325 mesh) shall be allowed.

(Ord. A-2248. Passed 4-9-01.)

#### **1143.06 ODOR.**

Any use, activity or operation which releases odors to the atmosphere shall be so controlled as to insure that it will produce no public nuisance or hazard at or beyond the nearest lot line.

(Ord. A-2248. Passed 4-9-01.)

#### **1143.07 FUMES AND GASES.**

The emission of toxic or injurious fumes and gases shall be controlled so as to comply with the following:

- (a) The emission from any source shall not cause, at or beyond any lot line, concentrations of toxic and/or injurious fumes and gases in excess of the recommended standards of the American Conference of Governmental Hygienists;
- (b) The emission of any toxic gas or fumes across lot lines in such concentrations as to be detrimental to or endanger public health, safety and welfare or which shall cause injury or damage to property or business is prohibited.

(Ord. A-2248. Passed 4-9-01.)

**1143.08 HEAT AND GLARE.**

No use, operation, activity or structure shall cause heat or glare in such a manner as to be a public nuisance at or beyond the lot line.

(Ord. A-2248. Passed 4-9-01.)

**1143.09 VIBRATION.**

Any use creating intense earth-shaking vibration such as are created by heavy drop forge shall be set back from any R District boundary at least 250 feet, and at least 150 feet from any B District boundary. Earth-shaking vibrations at the lot line shall not be in violation of this chapter as long as the vibration is not perceptible without the aid of instruments.

(Ord. A-2248. Passed 4-9-01.)

**1143.10 NOISE.**

All uses shall be operated or used in such a way as to comply with the City's noise ordinance (see Chapter 531 of the General Offenses Code.)

(Ord. A-2248. Passed 4-9-01.)

**1143.11 FIRE HAZARDS; FLAMMABLE LIQUID STORAGE.**

The storage, utilization or manufacture of solid materials or products ranging from incombustible to moderate burning is permitted. The storage, utilization or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted, provided the following conditions are met:

- (a) Such materials shall be stored, utilized or manufactured in such a manner and protected by such means as approved by the State Fire Marshal.
- (b) The storage, utilization or manufacture of flammable liquids or gases which produce flammable or explosive vapors shall be permitted in accordance with the Ohio Fire Code, as published in Division 1301:7 of the Ohio Administrative Code.

(Ord. A-2248. Passed 4-9-01.)

**1143.12 LIQUID AND SOLID WASTE.**

All uses shall be subject to the Ohio Environmental Protection Agency's Hazardous Waste Management Rules governing the storage, management, treatment and disposal of liquid and solid wastes.

(Ord. A-2248. Passed 4-9-01.)

**1143.13 RADIATION.**

All uses shall be subject to Title 10 of the Code of Federal Regulations governing the storage, packaging, control, licensing and disposal of nuclear materials and radioactive waste.

(Ord. A-2248. Passed 4-9-01.)

**1143.14 DUST.**

Dust shall be so controlled as not to produce a hazardous or obnoxious situation beyond the property lines of the lot on which such dust matter is produced.

(Ord. A-2248. Passed 4-9-01.)

**1143.15 ELECTROMAGNETIC INTERFERENCE.**

No use shall produce electromagnetic interference with normal radio or television reception in any residential district, or exceed applicable standards established by any applicable Federal or State regulations.

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1144**

### **Residential Planned Unit Development**

- 1144.001 Intent.
- 1144.01 Submission of preliminary plan.
- 1144.02 Duties of Planning Commission.
- 1144.03 Permitted uses.
- 1144.04 Building heights and densities.
- 1144.05 Yards, courts and floor areas.
- 1144.06 Recreation areas.
- 1144.07 Streets and off-street parking.
- 1144.08 Utilities and service facilities.
- 1144.09 Landscaping and unused areas.
- 1144.10 Hillside areas.
- 1144.11 Commercial structures.
- 1144.12 Additional requirements.
- 1144.13 Contents of preliminary plan.
- 1144.14 Submission of final plan.
- 1144.15 Conformance with final plan; revisions.

#### **1144.001 INTENT.**

The primary intent of a Residential Planned Unit Development is to provide a permissive and alternative zoning procedure for residential development and housing and, in certain instances where specific conditions are met, related neighborhood commercial uses.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.01 SUBMISSION OF PRELIMINARY PLAN.**

The owner of a tract of land containing not less than five acres may submit to the Planning Commission, for its review, a preliminary plan for the use and development of such tract for a Residential Planned Unit Development, provided the tract is located in any N, S or R District.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.02 DUTIES OF PLANNING COMMISSION.**

It shall be the duty of the Planning Commission, within sixty days after the preliminary plan is submitted, to hold a public hearing thereon and to investigate and ascertain whether the location, size, layout and other characteristics of the proposed plan comply with the following conditions:

- (a) That the proposed project is consonant with the Comprehensive Plan of the community, and properly provides for the implementation of those features of such Plan effecting the tract of land in question;
- (b) That the proposed project will not adversely affect neighboring property;

- (c) That the proposed project is at a location where traffic congestion does not exist at present on the streets to be used in conjunction therewith, and where undue congestion will not likely be created as a result of the proposed project;
  - (d) That the plan of the proposed project provides for the integrated and harmonious design of buildings, for adequate and properly arranged facilities for internal traffic circulation and off-street parking, for appropriate and desirable landscaping and for such other facilities and features as may be necessary to make the proposed project attractive and efficient from the standpoint of the developer as well as from the standpoint of the adjoining and surrounding existing and potential developments; and
  - (e) That the proposed project conforms to the requirements and standards set forth herein.
- (Ord. A-2248. Passed 4-9-01.)

### **1144.03 PERMITTED USES.**

Uses permitted in the Residential Planned Unit Development are as follows:

- (a) Barber shop; beauty shop; weight loss center; photographic studio in any R District;
  - (b) Business and professional office uses, not including drive-in, drive-up or drive-through facilities in any R District;
  - (c) Church or temple in any N, S or R District;
  - (d) Clothing service; self-service laundry or dry cleaner; dry cleaning establishment using not more than two clothes cleaning units, neither of which shall have a rated capacity of more than sixty pounds, using cleaning fluid which is nonexplosive and nonflammable, in any R District;
  - (e) Dressmaking; millinery; tailor and pressing shop; shoe repair shop in any R District;
  - (f) Drug store; hardware store; paint store; newsdealer; apparel shop; flower shop; antique shop; shoe shop; variety store; toy store; jewelry store; sporting goods store in any R District;
  - (g) Educational institution in any N, S or R District;
  - (h) Grocery; meat market; delicatessen; bakery in any R District;
  - (i) Multi-family dwelling in R-1, R-2 and R-3 Districts, provided that in R-1 and R-2 Districts there shall be no more than ten units per building;
  - (j) Municipal or governmental building in any N, S or R District;
  - (k) Publicly-owned or operated recreation facility in any N, S or R District;
  - (l) Radio and television repair shop; electric appliance repair shop; record shop in any R District;
  - (m) Single-family dwelling in any N, S or R District;
  - (n) Two-family dwelling in R-1, R-2 and R-3 Districts.
- (Ord. A-2248. Passed 4-9-01.)

### **1144.04 BUILDING HEIGHTS AND DENSITIES.**

Building height and density requirements shall be the same as for the district in which the tract of land is located, provided, however, that a reduction of the minimum lot area per dwelling not to

exceed forty percent of the requirement for single-family dwellings in the district involved may be approved by the Planning Commission when, in its opinion, such reduction is justified by superior design and/or other favorable amenities, characteristics or features of the proposed Residential Planned Unit Development. Commercial buildings shall not exceed twenty-five feet in height, nor, in the aggregate, occupy more than twenty-five percent of the total site acres.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.05 YARDS, COURTS AND FLOOR AREAS.**

Yards and courts shall be of such size as to be in concert with and appropriate relative to the requirements for the district in which the tract of land is located. Minimum floor area requirements shall be those designated for the district, provided, however, that for two-family dwellings and multi-family dwellings in a proposed project located in the R-1 or R-2 District, these requirements shall be those designated for such uses in the R-3 District. Commercial buildings shall be located no closer than fifty feet to any street line or thirty feet to any other boundary line on the site.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.06 RECREATION AREAS.**

- (a) A minimum of ten percent of the gross acreage shall be reserved for common open space or recreation area. However, this requirement may be waived or reduced by the Planning Commission for developments less than ten acres in area, provided that the developer can reasonably demonstrate that existing public recreational facilities in the immediate neighborhood area are sufficient to accommodate the increased use caused by the proposed development, or for any other significant reason, and the developer is amenable to provide improvements to or expand the public recreation facilities in the vicinity of the proposed development in lieu of providing the ten percent common open space or recreation area. The ten percent requirement may also be reduced by the Commission where the developer proposes to provide improvements to open space or recreation areas.
- (b) For the purposes of interpretation, common open space or recreation areas shall not include: yard space planned for and used in association with dwelling units; space left over between buildings; steep slopes; or street right-of-way or parking areas.
- (c) Where development is staged, at no time shall the total area of dedicated open space or recreation area be less than ten percent unless otherwise authorized by the Commission.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.07 STREETS AND OFF-STREET PARKING.**

The design and construction of streets and places to be developed within the proposed project site shall conform in all respects to the requirements for such facilities contained in the regulations governing the subdividing of land in the City. Other provisions of this Zoning Code notwithstanding, there shall be provided at least two off-street parking spaces for each dwelling unit. The off-street parking requirements for commercial uses shall be at least one space for each

900 square feet in gross floor area in the principal building or buildings. The off-street parking requirements for other uses shall be those stipulated in Chapter 1141.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.08 UTILITIES AND SERVICE FACILITIES.**

The location, design and construction of all utility facilities shall conform in all respects to the requirements for such facilities contained in the regulations governing the subdividing of land in the City. Service drives and all service facilities shall be located entirely within the proposed project site. Commercial structures shall have one off-street loading and unloading space for each 10,000 square feet of gross floor area or fraction thereof in the principal building or buildings.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.09 LANDSCAPING AND UNUSED AREAS.**

All areas not used for access, buildings, circulation and service shall be landscaped as may be deemed appropriate by the Planning Commission to make the proposed project attractive and efficient and to protect neighboring property and developments from adverse effects that may result from such project. The entire site area of the proposed project shall be maintained in good condition.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.10 HILLSIDE AREAS.**

If one or more buildings are proposed to be located in a hillside area, the maximum building height for such buildings may be increased one story over that otherwise permitted. However, there shall be provided at least one entrance from an access street or drive for each two and one-half stories of building height.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.11 COMMERCIAL STRUCTURES.**

In addition to the other regulations and requirements contained herein, any commercial structures that are a part of a Residential Planned Unit Development shall comply with the following:

- (a) Maximum Floor Space Per Establishment. No individual establishment or group of uses operated as a single business establishment shall occupy a total of more than 1,000 square feet of gross floor space in the principal building or buildings.
- (b) Signs. All exterior signs shall comply with the requirements of Chapter 1149, except that advertising signs, detached business signs and/or portable and/or temporary signs shall not be permitted in a Residential Planned Unit Development.
- (c) Exterior Lighting. All exterior lighting of parking areas, buildings and attached signs shall be so arranged as to reflect light away from adjoining premises, and no flashing lights or signs of any kind shall be permitted, except those required by traffic regulations.

- (d) Maintenance and Landscaping. All buildings, structures, parking areas and loading spaces shall be kept and maintained in a neat and orderly manner and appearance. All areas not occupied by buildings or structures or by parking or loading areas shall be landscaped and maintained in a neat manner and appearance. Parking and loading areas located across a street from facing residential premises or closer than thirty feet to the property lines of adjoining residential premises and building entrances located closer than fifty feet to such property lines shall be appropriately screened from such adjoining premises by means of plantings, ornamental fences or walls or approved design.
- (e) Outdoor Displays. In order to preserve the character of the adjacent residential areas, no outdoor display of goods, merchandise or services, or outdoor display or exhibit of any nature, shall be permitted. However, the Board of Appeals may, after public hearing, authorize a specific exhibit or display for a period up to, but not exceeding, fourteen days, provided that the applicant has substantiated to the satisfaction of the Board that such display or exhibit would be appropriate in a Residential Planned Unit Development and that the activity will not adversely affect adjoining or nearby residential property.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.12 ADDITIONAL REQUIREMENTS.**

In addition to the foregoing, the Planning Commission may impose such other conditions, requirements or limitations concerning the design, development and operation of the proposed project as it may deem necessary for the protection of adjacent properties and the public health, safety and general welfare.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.13 CONTENTS OF PRELIMINARY PLAN.**

The application for review of the preliminary plan of a Residential Planned Unit Development shall be submitted and include ten copies of a scale drawing certified by a registered engineer or land surveyor. Such drawing shall contain the following information:

- (a) The accurate dimensions and size of the site area as well as the topography of the site and adjoining lands;
- (b) The location and dimensions of all existing and proposed streets, places and pedestrian walkways within and abutting the site, as well as the location, size and means of ingress and egress of all proposed off-street loading and parking areas;
- (c) The location, size, and height of all existing and proposed buildings and structures within the site and on adjoining lands, as well as the existing or proposed use of each such building or structure, including the number of dwelling units to be accommodated in each;
- (d) The location, size and means of access of proposed recreation areas;
- (e) The location, dimensions or other relevant particulars concerning features of the Comprehensive Plan affecting the site;

- (f) The proposed plans for providing electrical, gas, sewer and water utility services, including connections to existing service lines and existing and proposed easements;
- (g) Such other information as may be required by the Planning Commission in order that it may determine the appropriateness of the proposed project for the section of the community in which it is intended to be developed;
- (h) The existing zoning classification(s) of the property involved in the proposed development, with notations made where the proposal does not comply with all provisions of the zoning district(s) involved and statements on how design considerations will accommodate these provisions;
- (i) A preliminary plat for any subdivision of land involved in the proposed development;
- (j) A statement explaining why the proposed method of development may be seen as a superior alternative to development in the conventional manner under existing zoning and subdivision regulations;
- (k) A proposed landscaping plan indicating the types and locations of special landscape treatments and explaining the anticipated effects of the proposed treatments; and
- (l) A stormwater management plan, including the location and calculations of any retention/detention basins and erosion control measures.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.14 SUBMISSION OF FINAL PLAN.**

Upon determination by the Planning Commission that the proposed project, as shown on the preliminary plan thereof, conforms to all of the applicable provisions of this chapter and other provisions of this Zoning Code, the owner of the tract of land involved shall prepare and submit a final development plan which shall incorporate any changes or modifications required by the Commission. After the receipt of such final plan and the finding that it meets all of the stipulated requirements, the Commission shall submit such plan to Council together with its report and recommendations thereon. Council shall process the final development plan in accordance with the provisions of Chapter 1153, including the holding of a public hearing thereon, and may modify the plan consistent with the intent and meaning of this chapter.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.15 CONFORMANCE WITH FINAL PLAN; REVISIONS.**

- (a) Subsequent to the approval of the final development plan by Council, the lands included within the site area thereof shall not be developed or used in any manner whatsoever that is not in conformance with the approved plan, and no building permit or certificate of occupancy shall be issued for any building, structure or use on the lands except in conformance with the approved plan.
- (b) Any change in an approved final development plan desired by the owner of the tract of land involved shall be submitted to the Planning Commission. The Commission shall conduct a public hearing on all proposed revisions to an approved final development plan and make a determination or finding that at least one of the following is true:
  - (1) The proposed revision is a minor change, not substantially altering the overall concept of the Planned Unit Development. Generally, such changes are limited to

small site alterations such as realigning a street, shifting a setback or slight changes in building designs that do not result in the loss of open space. Increases of up to ten percent of the total development density and any decreases in density may be determined by the Commission to be minor changes. Minor changes shall not involve reductions in required improvements, such as open space, parking areas, pavement widths, etc.

- (2) The proposed revision is a major change, which will affect the general character and overall concept of the Planned Unit Development, including substantial relocation or redesign of principal or accessory structures, parking, open space areas and streets. A major change is involved in density increases in excess of ten percent of the total development density and/or revisions affecting the land coverage by building, parking and open space areas.
- (c) Where the Commission determines that the proposed revision is a minor change, the proposal may be reviewed as a revised final plan, and action to approve, modify or deny approval may be taken by the Commission following the public hearing. Minor changes involving or affecting public improvements shall be referred to Council for review and action, not requiring a public hearing by Council.
- (d) Where the Commission determines that the proposed revision is a major change, the proposal shall be reviewed as a revised preliminary development plan as a part of the same public hearing, and the Commission may act to approve, modify or deny approval for the revised preliminary plan, following the public hearing. The revised preliminary plan shall be reviewed in the same manner as the original plan, including final plan review by the Commission and public hearing review by Council.
- (e) Upon approval of a revised final development plan as a minor or major change the original final plan shall be considered void and the revised final plan shall have the same force and effect as if it were the original plan.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.16 FAILURE TO COMPLETE PROJECT.**

If the proposed Residential Planned Unit Development has not been completed within twenty-four months after the effective date of the final approval by Council, such approval shall become void, and no building permit or certificate of occupancy shall be issued on the basis of such plan. However, Council, upon the recommendation of the Planning Commission, may grant more time to the developer, not to exceed an additional twelve months, for such completion, in cases where the developer has diligently pursued such project within the initial twenty-four month period and has shown that the delay was caused by extenuating and unavoidable circumstances.

(Ord. A-2248. Passed 4-9-01.)

#### **1144.17 IDENTIFICATION ON ZONE MAP.**

The boundary of any approved Residential Planned Unit Development shall be identified on the "Zone Map, Sidney, Ohio" in accordance with Sections 1105.01 and 1105.02 of the Zoning Code. Such identification shall overlay the base district or districts in which the development is located.

(Ord. A-2248. Passed 4-9-01.)

**1144.18 FEES.**

Residential Planned Unit Development fees shall be as follows:

Preliminary Development Plan       \$ 50.00

Final Development Plan               \$150.00

(Ord. A-2468. Passed 1-9-06.)

## **CHAPTER 1145 Planned Business Center**

- 1145.001 Intent.
- 1145.01 Submission of preliminary plan.
- 1145.02 Duties of Planning Commission; final plan.
- 1145.03 Plan contents.
- 1145.04 Principal uses.
- 1145.05 Accessory uses.
- 1145.06 Height regulations.
- 1145.07 Parking and loading requirements.
- 1145.08 Required conditions.
- 1145.09 Outdoor displays.
- 1145.10 Failure to complete project.
- 1145.11 Identification on Zone Map.

### **1145.001 INTENT.**

The primary intent of the Planned Business Center is to provide a permissive and alternative development procedure to encourage comprehensively planned and developed commercial developments.

(Ord. A-2248. Passed 4-9-01.)

### **1145.01 SUBMISSION OF PRELIMINARY PLAN.**

The owner of a tract of land containing not less than ten acres may submit to the Planning Commission, for its review, a preliminary plan for the use and development of such tract as a Planned Business Center, provided that the tract is located at or near where a proposed commercial area or planned development area is shown on the Future Land Use Map, and, further, provided that the tract is in an O-1, B-1 or B-2 District. In accepting such a plan for review, the Commission must be satisfied that the proponents of the development intend to start construction within one year of the final approval by Council and intend to complete the project within two years of such approval.

(Ord. A-2248. Passed 4-9-01.)

### **1145.02 DUTIES OF PLANNING COMMISSION; FINAL PLAN.**

- (a) It shall be the duty of the Planning Commission to hold a public hearing on the preliminary plan and to investigate and ascertain whether the plan complies with the following conditions:
  - (1) The location of the Planned Business Center shall be on property where the establishment of the center is unlikely to entail traffic and parking difficulties. The Commission shall satisfy itself as to the adequacy of the thoroughfares to

carry the additional traffic engendered by the proposed development and may request a report and recommendation of the City Engineer;

- (2) The plan shall present a unified and organized arrangement of buildings and service facilities, including parking and loading spaces;
  - (3) The plan shall conform to the requirements and standards as set forth herein; and
  - (4) The plan shall prohibit residential or industrial use of the land, or any other use which would substantially interfere with the orderly development or the continuation of the retail business and service uses.
- (b) Upon determination by the Commission that the preliminary plan meets these conditions, the proponent shall prepare and submit a final development plan, which shall incorporate any changes or alterations requested by the Commission. If the final development plan is found to comply with the requirements set forth in this chapter, the Commission shall submit such plan, together with its report and recommendations thereon, to Council. Council shall process the final development plan in accordance with the provisions of Chapter 1153, including the holding of a public hearing thereon, and may modify the plan consistent with the intent and meaning of this chapter.
- (c) After the final development plan has been approved, any subsequent change in use or any adjustment or rearrangement of buildings, parking area, loading areas, entrances or exits, heights or yards that may be desired, shall be submitted in detail to the Commission. The Commission shall review such changes, adjustments and or rearrangements that may be proposed and submit its recommendation thereon to Council. Council shall take such action as is consistent with the requirements, intent and meaning of this chapter.

(Ord. A-2248. Passed 4-9-01.)

### **1145.03 PLAN CONTENTS.**

Ten copies of the development plan and proposal shall be submitted and shall include:

- (a) A detailed site plan showing building, parking lot and loading space locations and layouts, as well as proposed landscaping and screening and the topography of the site and adjoining lands;
- (b) Architectural plans or sketches of the proposed buildings, as well as the proposed use of each building;
- (c) The arrangements to be made for utility connections and appropriate street widening or improvements;
- (d) A market analysis showing the number, size and type of stores which could be expected to operate with a reasonable margin of profit in the proposed center, and the suitability of the proposed location of the center in relation to existing and potential customer demand;
- (e) A traffic study, which shall include a comparative analysis of the present capacity of streets in the vicinity of the proposed center, with the traffic volumes anticipated once the center is in full operation, and a circulation plan for all such streets, including recommendations for controlling, signaling, channelizing, storing and warning traffic;

- (f) Arrangements contemplated for the operation and maintenance of facilities, together with a statement of financial responsibility which demonstrates the ability of the developer of the center to proceed with and complete construction and to operate and maintain it;
- (g) The existing zoning classification(s) of the property involved in the proposed development, with notations made where the proposal does not comply with all the provisions of the zoning district(s) involved and with statements on how design considerations will accommodate these provisions;
- (h) A preliminary plat for any subdivision of land involved in the proposed development;
- (i) A statement explaining why the proposed method of development may be seen as a superior alternative to development in the conventional manner under existing zoning and subdivision regulations;
- (j) A stormwater management and erosion control plan, including the locations and calculations of any retention/detention basins; and
- (k) Such other information as may be deemed necessary by the Commission in order that a determination may be made as to the appropriateness of the proposal for the section of the community in which it is intended to be built.

(Ord. A-2248. Passed 4-9-01.)

#### **1145.04 PRINCIPAL USES.**

The following uses shall be principally permitted in the Planned Business Center Overlay District:

- (a) Any use principally or conditionally permitted in the O-1 Office District.
- (b) Any use principally or conditionally permitted in the B-1 Local Business District.
- (c) Any use principally or conditionally permitted in the B-2 Community Business District.

(Ord. A-2248. Passed 4-9-01.)

#### **1145.05 ACCESSORY USES.**

Buildings, structures or uses accessory and customarily incidental to any principal permitted uses listed in the O-1 Office District, B-1 Local Business District or B-2 Community Business District shall be permitted in conjunction with such uses, including off-street loading and parking spaces, provided that accessory buildings or structures shall not exceed in gross floor area fifteen percent of the total gross floor area of the principal building or buildings.

(Ord. A-2248. Passed 4-9-01.)

#### **1145.06 HEIGHT REGULATIONS.**

No principal building or structure shall exceed sixty feet in height, and no accessory building or structure shall exceed twenty-five feet in height.

(Ord. A-2248. Passed 4-9-01.)

### **1145.07 PARKING AND LOADING REQUIREMENTS.**

Accessory off-street parking and loading spaces shall be provided within the boundaries of the site in accordance with the following, other provisions of this Zoning Code notwithstanding:

- (a) Off-Street Parking Spaces. Not less than one space for each 100 square feet of gross floor area in the principal building or buildings.
- (b) Off-Street Loading Spaces. Not less than one space for each 7,500 square feet of gross floor area, or fraction thereof, in the principal building or buildings.

(Ord. A-2248. Passed 4-9-01.)

### **1145.08 REQUIRED CONDITIONS.**

In addition to the other regulations and requirements contained herein, a Planned Business Center shall comply with the following:

- (a) Signs. Advertising signs shall be prohibited. All other exterior signs shall comply with the provisions of Chapter 1149.
- (b) Exterior Lighting. All exterior lighting of parking areas, buildings and signs shall be so arranged as to reflect the light away from adjoining lots, and no flashing lights or signs of any kind shall be permitted except those required by traffic regulations.
- (c) Maintenance and Landscaping. All buildings, structures, parking areas and loading spaces shall be kept and maintained in a neat and orderly manner and appearance. All areas not occupied by buildings, structures, parking areas or loading spaces shall be landscaped and maintained in a neat manner and appearance. Parking and loading areas located across a street from facing residential uses, or closer than thirty feet from the lot line of adjoining residential uses, shall be appropriately screened from such adjoining uses by means of plantings, ornamental fences or walls of approved design.

(Ord. A-2248. Passed 4-9-01.)

### **1145.09 OUTDOOR DISPLAYS.**

Except when conducted within a mall area enclosed by buildings on the site, and except for the dispensing of fuels to motor vehicles, no outdoor display of goods, merchandise or services, or outdoor display or exhibit of any other nature, shall be permitted. However, the Board may, after public hearing, authorize a specific exhibit or display for a period up to but not exceeding fourteen days, provided that the applicant has substantiated to the satisfaction of the Board that such display or exhibit would be appropriate in a Business Center and that the activity will not adversely affect other property or uses in the vicinity.

(Ord. A-2248. Passed 4-9-01.)

### **1145.10 FAILURE TO COMPLETE PROJECT.**

If the proposed Planned Business Center has not been completed within twenty-four months after the effective date of the final approval by Council, such approval shall become void, and no building permit or certificate of occupancy shall be issued on the basis of such plan. However, Council, upon the recommendation of the Planning Commission, may grant more time to the developer, not to exceed an additional twelve months, for such completion in cases where the

developer has diligently pursued such project within the initial twenty-four month period and has shown that the delay was caused by extenuating and unavoidable circumstances.

(Ord. A-2248. Passed 4-9-01.)

**1145.11 IDENTIFICATION ON ZONE MAP**

The boundary of any approved planned business center shall be identified on the "Zone Map, Sidney, Ohio" in accordance with Sections 1105.01 and 1105.02 of the Zoning Code. Such identification shall overlay the base district or districts in which the development is located.

(Ord. A-2248. Passed 4-9-01.)

**1145.12 FEES.**

Planned Business Center Development fees shall be as follows:

Preliminary Development Plan	\$ 50.00
Final Development Plan	\$150.00

(Ord. A-2468. Passed 1-9-06.)

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## **CHAPTER 1146 Planned Industrial Center**

- 1146.001 Intent.
- 1146.01 Submission of preliminary plan.
- 1146.02 Duties of Planning Commission; final plan.
- 1146.03 Plan contents.
- 1146.04 Principal uses.
- 1146.05 Accessory uses.
- 1146.06 Height regulations.
- 1146.07 Parking and loading requirements.
- 1146.08 Required conditions.
- 1146.09 Failure to complete project.
- 1146.10 Identification of Zone Map.

### **1146.001 INTENT.**

The primary intent of the Planned Industrial Center is to provide a permissive and alternative development procedure to encourage comprehensively planned and developed industrial developments.

(Ord. A-2248. Passed 4-9-01.)

### **1146.01 SUBMISSION OF PRELIMINARY PLAN.**

The owner of a tract of land containing not less than ten acres may submit to the Planning Commission, for its review, a preliminary plan for the use and development of such tract as a Planned Industrial Center, provided that the tract is located at or near where a proposed industrial area or planned unit development area is shown on the Future Land Use Map, and, further, provided that the tract is in a I-1 or I-2 District. In accepting such a plan for review, the Commission must be satisfied that the proponents of the development intend to complete the project within two years of such approval.

(Ord. A-2248. Passed 4-9-01.)

### **1146.02 DUTIES OF PLANNING COMMISSION; FINAL PLAN.**

- (a) It shall be the duty of the Planning Commission to hold a public hearing on the preliminary plan and to investigate and ascertain whether the plan complies with the following conditions:
  - (1) The location of the Planned Industrial Center shall be on property where the establishment of the center is unlikely to entail traffic and parking difficulties. The Commission shall satisfy itself as to the adequacy of the thoroughfares to carry the additional traffic engendered by the proposed development and may require a report and recommendation of the City Engineer;
  - (2) The plan shall present a unified and organized arrangement of buildings and service facilities, including parking and loading/unloading spaces;
  - (3) The plan shall conform to the requirements and standards set forth herein; and

- (4) The plan shall prohibit residential uses of the land, or any other use which would substantially interfere with the orderly development of the continuation of industrial uses.
- (b) Upon determination by the Commission that the preliminary plan meets these conditions, the proponent shall prepare and submit a final development plan, which shall incorporate any changes or alterations requested by the Commission. If the final development plan is found to comply with the requirements set forth in this chapter, the Commission shall submit such plan, together with its report and recommendations thereon, to Council. Council shall process the final development plan in accordance with the provisions of Chapter 1153, including the holding of a public hearing thereon, and may modify the plan consistent with the intent and meaning of this chapter.
- (c) After the final development plan has been approved, any subsequent change in use or any adjustment or rearrangement of buildings, parking areas, loading areas, entrances or exits, or heights that may be desired, shall be submitted in detail to the Commission. The Commission shall review such changes, adjustments and/or rearrangements that may be proposed and submit its recommendation thereon to Council. Council shall take such action as is consistent with the requirements, intent and meaning of this chapter.

(Ord. A-2248. Passed 4-9-01.)

### **1146.03 PLAN CONTENTS.**

Ten copies of the development plan and proposal shall be submitted and shall include:

- (a) A detailed site plan showing buildings, parking lots and loading space locations and layouts, proposed landscaping and screening, and the topography of the site and adjoining lands;
- (b) Architectural plans or sketches of the proposed buildings, as well as the proposed use of each building;
- (c) The arrangements to be made for utility connections, and appropriate street widening or improvements;
- (d) A traffic study, which shall include a comparative analysis of the present capacity of streets in the vicinity of the proposed center, with the traffic volumes anticipated once the center is in full operation, and a circulation plan for all such streets, including recommendations for controlling, signalizing, channelizing, storing and warning traffic;
- (e) The existing zoning classification(s) of the property involved in the proposed development, with notations made where the proposal does not comply with all the provisions of the zoning district(s) involved and statements on how design considerations will accommodate these provisions;
- (f) A preliminary plat for any subdivision of land involved in the proposed development;
- (g) A statement explaining why the proposed method of development may be seen as a superior alternative to development in the conventional manner under existing zoning and subdivision regulations.
- (h) A stormwater management and erosion control plan, including the locations and calculations of any retention/detention basins; and

- (i) Such other information as may be deemed necessary by the Commission in order that a determination may be made as to the appropriateness of the proposal for the section of the community in which it is intended to be built.

(Ord. A-2248. Passed 4-9-01.)

#### **1146.04 PRINCIPAL USES.**

The following uses shall be principally permitted in the Planned Industrial Center Overlay District:

- (a) Any use principally or conditionally permitted in the I-1 Light Industrial District.
- (b) Any use principally or conditionally permitted in the I-2 General Industrial District.

(Ord. A-2248. Passed 4-9-01.)

#### **1146.05 ACCESSORY USES.**

Buildings, structures or uses accessory and customarily incidental to any principal permitted use listed in the I-1 Light Industrial District or I-2 General Industrial District, shall be permitted in conjunction with such uses, including off-street parking and loading/unloading spaces, provided that accessory buildings or structures shall not exceed in gross floor area fifteen percent of the total gross floor area of the principal building or buildings.

(Ord. A-2248. Passed 4-9-01.)

#### **1146.06 HEIGHT REGULATIONS.**

No principal building or structure shall exceed fifty feet in height, and no accessory building or structure shall exceed twenty-five feet in height.

(Ord. A-2248. Passed 4-9-01.)

#### **1146.07 PARKING AND LOADING REQUIREMENTS.**

Accessory off-street parking and loading spaces shall be provided within the boundaries of the site in accordance with the following, other provisions of this Zoning Code notwithstanding:

- (a) Off-Street Parking Spaces. Not less than one space for each 3,000 square feet of gross floor area in the principal building or buildings.
- (b) Off-Street Loading Spaces. Not less than one space for each 15,000 square feet of gross floor area in the principal building or buildings.

(Ord. A-2248. Passed 4-9-01.)

#### **1146.08 REQUIRED CONDITIONS.**

In addition to the other regulations and requirements contained herein, a Planned Industrial Center should comply with the following:

- (a) Signs. Advertising signs shall be prohibited. All other exterior signs shall comply with the provisions of Chapter 1149.
- (b) Exterior Lighting. All exterior lighting of parking areas, buildings and signs shall be so arranged as to reflect the light away from adjoining lots, and no flashing lights or signs of any kind shall be permitted, except those required by traffic regulations.

- (c) Maintenance and Landscaping. All buildings, structures, parking areas and loading spaces shall be kept and maintained in a neat and orderly manner and appearance. All areas not occupied by buildings, structures, parking areas or loading/unloading spaces shall be landscaped and maintained in a neat manner and appearance. Parking and loading areas located across a street from facing residential uses, or closer than thirty feet from the lot line of adjoining residential uses, shall be appropriately screened from such adjoining uses by means of plantings, ornamental fences or walls of approved design.
- (d) Outside Storage. All businesses, services or processing shall be conducted wholly within a completely enclosed building, except for off-street parking and such other outdoor storage of materials and equipment as may be authorized by the Board of Appeals.

(Ord. A-2248. Passed 4-9-01.)

#### **1146.09 FAILURE TO COMPLETE PROJECT.**

If the proposed Planned Industrial Center has not been completed within twenty-four months after the effective date of the final approval by Council, such approval shall become void, and no building permit or certificate of occupancy shall be issued on the basis of such plan. However, Council, upon the recommendation of the Planning Commission, may grant more time to the developer, not to exceed an additional twelve months, for such completion, in cases where the developer has diligently pursued such project within the initial twenty-four month period and has shown that the delay was caused by extenuating and unavoidable circumstances.

(Ord. A-2248. Passed 4-9-01.)

#### **1146.10 IDENTIFICATION ON ZONE MAP**

The boundary of any approved Planned Industrial Center shall be identified on the "Zone Map, Sidney, Ohio" in accordance with Sections 1105.01 and 1105.02 of the Zoning Code. Such identification shall overlay the base district or districts in which the development is located.

(Ord. A-2248. Passed 4-9-01.)

#### **1146.11 FEES.**

Planned Industrial Center Development fees shall be as follows:

Preliminary Development Plan	\$ 50.00
Final Development Plan	\$150.00

(Ord. A-2468. Passed 1-9-06.)

## CHAPTER 1147 Conditional Uses

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| <p>1147.001 ...Intent.</p> <p>1147.01 .....General requirements.</p> <p>1147.02 .....Procedure; public hearing required.</p> <p>1147.03 .....Hearing and Board requirements. (Repealed)</p> <p>1147.04 .....Failure to commence or complete construction; failure to comply with provisions of conditional use approval.</p> <p>1147.05 .....Amended building permit.</p> <p>1147.06 .....Additional conditions.</p> <p>1147.07 .....Airports and heliports.</p> <p>1147.08 .....Cemetery.</p> <p>1147.09 .....Hospital; nursing home or nursing home conversion.</p> <p>1147.10 .....Junk yard; motor vehicle wrecking yard.</p> <p>1147.11 .....Public camp.</p> <p>1147.12 .....Mobile home park.</p> <p>1147.13 .....Private noncommercial recreation facility or development.</p> <p>1147.14 .....Private school; special school.</p> <p>1147.15 .....Professional office.</p> <p>1147.16 .....Public or commercial sanitary fill or refuse dump.</p> <p>1147.17 .....Radio, television or telephonic communications transmitting power.</p> <p>1147.18 .....Tourist home; boarding or lodging house.</p> <p>1147.19 .....Motor vehicle service facilities; public garage.</p> <p>1147.20 .....Extraction of gas.</p> <p>1147.21 .....Home occupations.</p> <p>1147.22 .....Private banquet/reception facility.</p> <p>1147.23 .....Off-premises sign.</p> <p>1147.24 .....Animal hospital; kennel.</p> <p>1147.25 .....Contractor storage yard; building material yard; lumber yard.</p> | <p>1147.26 .....Dry cleaning establishment.</p> <p>1147.27 .....Dwellings in the B-1 District.</p> <p>1147.28 .....Dwellings in the B-5 District.</p> <p>1147.29 .....Funeral home; mortuary.</p> <p>1147.30 .....Municipal or governmental building.</p> <p>1147.31 .....Private club; private lodge.</p> <p>1147.32 .....Public utility building.</p> <p>1147.33 .....Restaurant; drive-in restaurant; tavern.</p> <p>1147.34 .....Self-service storage facility.</p> <p>1147.35 .....Group home.</p> <p>1147.36 .....Commercial recreation facility; billiard room or pool hall.</p> <p>1147.37 .....Commercial parking facility.</p> <p>1147.38 .....Outdoor storage.</p> <p>1147.39 .....Off-street parking accessory to any principal use, excluding a dwelling, not located on the same lot as the principal use.</p> <p>1147.40 .....Motor vehicle repair garage.</p> <p>1147.41 ..... Emergency Shelter.</p> <p>1147.42 ..... Single Family Residence As Part of a Mortuary or Funeral Home.</p> |
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**1147.001 INTENT.**

The intent of conditional use approval is to provide regulations designed to accommodate unique uses in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety and welfare of the community.

(Ord. A-2248. Passed 4-9-01.)

**1147.01 GENERAL REQUIREMENTS.**

The conditional uses listed in the regulations governing each of the several districts and their accessory buildings and uses may be permitted by the Board of Appeals in such districts in accordance with the procedure set forth in this chapter.

(Ord. A-2248. Passed 4-9-01.)

**1147.02 PROCEDURE; PUBLIC HEARING REQUIRED.**

Upon receipt of an application and a development plan for a conditional use by the City Manager, or designated representative, such application and plan shall be referred to the Board of Appeals. The Board shall then proceed with a public hearing in accordance with the procedure outlined in Chapter 1151.

(Ord. A-2248. Passed 4-9-01.)

**1147.03 HEARING AND BOARD REQUIREMENTS. (REPEALED)**

(EDITOR'S NOTE: Section 1147.03 was repealed by Ordinance A-2036, passed May 28, 1996.)

**1147.04 FAILURE TO COMMENCE OR COMPLETE CONSTRUCTION; FAILURE TO COMPLY WITH PROVISIONS OF CONDITIONAL USE APPROVAL.**

Any person, to whom is issued a building and/or conditional use permit for a conditional use, who fails to commence construction within twelve months after such permit is issued, who fails to carry to completion the total development plan thereof within three years after such construction is begun, whichever is later, or who fails to conform to the provisions of the appropriate conditional use regulations of this Zoning Code, any conditions placed by the Board of Appeals in its approval, the development plan and/or supporting data finally approved by the Board and upon the basis of which such building and or conditional use permit was issued, may be required by the Board, upon written petition of any person deeming himself aggrieved or upon the administrative action of the City Manager, to show cause why such approval should not be withdrawn and why such building and/or conditional use permit should not be revoked.

(Ord. A-2248. Passed 4-9-01.)

**1147.05 AMENDED BUILDING PERMIT.**

The holder of a building permit for a conditional use may apply to the Board of Appeals at any time for an alteration, change, amendment or extension of the application or development plan upon which such permit was based.

- (a) Upon receipt of such application, the Board shall proceed as in the case of original applications for a building permit for a conditional use.
- (b) In the event the Board shall approve and order such application or development plan changed, altered, amended or extended, it shall so notify the City Manager who shall issue an amended building permit accordingly.

(Ord. A-2248. Passed 4-9-01.)

#### **1147.06 ADDITIONAL CONDITIONS.**

The Board may impose other conditions for a conditional use in addition to those prescribed herein if, in the Board's judgment, additional conditions are necessary for the protection of the public health and for reasons of safety, comfort and convenience. If the nature of the conditional use involves more than one such use, the applicant may apply for a building permit for the conditional use which most closely relates to the primary use; provided that the requirements of the related uses will also be met.

(Ord. A-2248. Passed 4-9-01.)

#### **1147.07 AIRPORTS AND HELIPORTS.**

- (a) Airports are conditionally permitted in the N-1 District; Heliports are conditionally permitted in the N-1 and I-2 Districts.
- (b) The minimum lot area for an airport shall be eight acres; for a heliport, one acre.
- (c) No portion of an airport or a heliport shall be permitted closer than 200 feet to a residential use.
- (d) Buffering and screening plans shall be approved by the Board of Appeals.
- (e) Plans for exterior on-premises signs shall be approved by the Board of Appeals. Off-premises signs shall be prohibited. All other exterior signs shall conform to the provisions of Chapter 1149.
- (f) Outdoor lighting or illumination shall be arranged and/or operated in such a manner as not to be misleading or pose a danger to aircraft operations.
- (g) Except as provided herein, yard and height regulations for buildings and structures shall be those designated for a conditional use in the district in which the airport or heliport is proposed to be located. However, a hangar or other building used to store aircraft may be built to a height not exceeding fifty feet, provided the otherwise designated side and rear yard requirements are increased one foot for each two feet the height exceeds that permitted in such district.
- (h) Construction or use of any temporary or permanent building, structure, object or terrain within or proximate to any airport or heliport shall comply with applicable development standards of Title 14 - Aeronautics and Space Code of Federal Regulations.

(Ord. A-2248. Passed 4-9-01.)

#### **1147.08 CEMETERY.**

- (a) Cemeteries are conditionally permitted in the N-1 District.
- (b) The minimum lot area shall be forty acres.

- (c) Landscape, buffering and screening plans shall be approved by the Board of Appeals.
- (d) Plans for exterior signs identifying the entrance to the cemetery and for the direction of visitors and traffic as well as plans for outdoor artificial lighting shall be approved by the Board of Appeals. All other types of exterior signs shall be prohibited.

(Ord. A-2248. Passed 4-9-01.)

**1147.09 HOSPITAL; NURSING HOME OR NURSING HOME CONVERSION.**

- (a) Hospitals and nursing homes are conditionally permitted in the N-1, S-1, R-1, R-2, R-3, and O-1 Districts. Nursing home conversions are conditionally permitted in the R-2 and R-3 Districts.
- (b) The minimum lot area for a hospital shall be three acres; for a nursing home 15,000 square feet but not less than 750 square feet per person cared for or occupant; and for a nursing home conversion, 15,000 square feet but not less than 750 square feet per person cared for.
- (c) The minimum front yard depth, side yard width and rear yard depth for a hospital shall be, respectively, sixty feet, thirty feet each side and forty feet; the minimum yard dimensions for a nursing home or nursing home conversion and a home for the aged shall be those designated for the applicable use in the district in which such facility is proposed to be established.
- (d) The minimum setback from the centerline of an interior street of a nursing home conversion shall be forty feet.
- (e) The gross floor area of the principal building(s) for a nursing home shall be over 1,000 square feet.
- (f) Landscape, buffering and screening plans shall be approved by the Board of Appeals.
- (g) Portions of a nursing home and a nursing home conversion abutting a residential use shall be buffered as approved by the Board of Appeals.
- (h) The maximum height of a building for a hospital shall be sixty-five feet, provided that the otherwise designated side and rear yard requirements are increased one foot for each three feet the height exceeds that permitted in the district in which the hospital is proposed to be established. The maximum height of a building for a nursing home conversion shall be that designated for the applicable use in the district in which such facility is proposed to be established.
- (i) Plans for exterior signs identifying the facility and for outdoor artificial lighting shall be approved by the Board of Appeals. All types of exterior signs shall be prohibited.

(Ord. A-2248. Passed 4-9-01.)

**1147.10 JUNK YARD; MOTOR VEHICLE WRECKING YARD.**

- (a) Junk yards and motor vehicle wrecking yards are conditionally permitted in the I-2 District.
- (b) The minimum side yard width shall be forty feet each side, the minimum rear yard depth forty feet, and the minimum front yard depth that designated for the applicable use in the district in which such yard is proposed to be established.
- (c) A junk yard or motor vehicle wrecking yard shall be located not closer than 900 feet from a residential use or lot.

- (d) A junk yard or motor vehicle wrecking yard shall be enclosed by a solid eight-foot fence of wood, metal, brick or masonry, and shall meet all additional requirements of Chapter 717 of the Code of Ordinances.
- (e) Plans for exterior on-premises signs and outdoor artificial lighting shall be approved by the Board of Appeals. Off-premises signs shall be prohibited; all other exterior signs shall conform to the provisions of Chapter 1149.
- (f) The minimum lot area and the maximum height of a building or structure shall be that designated for the applicable use in the district in which the yard is proposed to be established.

(Ord. A-2248. Passed 4-9-01.)

#### **1147.11 PUBLIC CAMP.**

- (a) Public camps are conditionally permitted in the N-1 District.
- (b) The minimum lot area for a public camp shall be three acres.
- (c) A public camp shall not be permitted closer than 200 feet to a residential use.
- (d) The minimum distance for each camping unit from any lot line shall be sixty-five feet.
- (e) The minimum distance for each camping unit from another camping unit shall be twenty feet.
- (f) The yard requirements for buildings or structures shall be those designated for the applicable use in the district in which the camp is proposed to be located.
- (g) The minimum roadway width of access drives without parking permitted shall be twenty feet; with parking permitted only on one side, twenty-eight feet; with parking permitted on both sides, thirty-six feet. Each camping unit space shall have direct access to such a drive, and such drives shall be improved in accordance with City specifications for residential streets, lighted at night and maintained in good condition.
- (h) Landscape, buffering and screening plans shall be approved by the Board of Appeals.
- (i) Plans for exterior signs identifying the entrance to the public camp and for the direction of traffic and occupants shall be approved by the Board of Appeals. All other types of exterior signs shall be prohibited.
- (j) Plans for outdoor artificial lighting shall be approved by the Board of Appeals.

(Ord. A-2248. Passed 4-9-01.)

#### **1147.12 MOBILE HOME PARK.**

- (a) Mobile home parks are conditionally permitted in the N-1 and R-3 Districts.
- (b) The minimum lot area for a mobile home park shall be five acres.
- (c) The minimum distance for each mobile home from any lot line shall be sixty-five feet. The yard requirements for buildings or structures shall be those designated for the applicable use in the district in which the park is proposed to be located.
- (d) Plans for exterior signs identifying the entrance to the mobile home park and for the direction of traffic and occupants as well as plans for outdoor artificial lighting shall be approved by the Board of Appeals. All other types of exterior signs, except nameplates not exceeding one square foot in area used to identify the occupant of a mobile home, shall be prohibited.

- (e) The minimum area of a mobile home unit space within the mobile home park shall be 3,000 square feet, and the minimum width of such space shall be forty feet. The minimum distance between neighboring mobile homes shall be twenty feet.
- (f) The minimum roadway width of access drives without parking permitted shall be twenty feet; with parking permitted only on one side, twenty-eight feet; with parking permitted on both sides, thirty-six feet. Each mobile home unit space shall have direct access to such a drive, and such drives shall be paved in accordance with City specifications for residential streets, lighted at night and maintained in good condition.
- (g) There shall be provided within each mobile home park a site or sites for recreation, for the exclusive use of the park occupants. Such site or sites shall have a minimum area in the aggregate of 100 square feet for each mobile home unit space and shall be of appropriate design and provided with appropriate equipment. The design of such site or sites shall be approved by the Board of Appeals.
- (h) Landscape, buffering and screening plans shall be approved by the Board of Appeals.  
(Ord. A-2248. Passed 4-9-01.)

**1147.13 PRIVATE NONCOMMERCIAL RECREATION FACILITY OR DEVELOPMENT.**

- (a) Private noncommercial recreation facilities and developments are conditionally permitted in the N-1, S-1, R-1, R-2, R-3 and B-1 Districts.
- (b) The minimum lot area for a stadium and for an artificial lake shall be three acres; for other recreation developments it shall be that area which is designated for the applicable use in the district in which such development is proposed to be established.
- (c) The minimum side yard width and rear yard depth shall be, respectively, forty feet each side and forty feet; the minimum front yard depth shall be that depth which is designated for a applicable use in the district in which the development is proposed to be established.
- (d) Plans for exterior signs identifying the development and the direction of traffic and users shall be approved by the Board of Appeals. All other types of exterior signs shall be prohibited.
- (e) The maximum height of a structure for a stadium shall be twenty-five feet; for any other development it shall be that height which is designated for the applicable use in the district in which the development is proposed to be established.
- (f) Plans for outdoor artificial lighting shall be approved by the Board of Appeals.
- (g) Landscape, buffering and screening plans shall be approved by the Board of Appeals.  
(Ord. A-2248. Passed 4-9-01.)

**1147.14 PRIVATE SCHOOL; SPECIAL SCHOOL.**

- (a) Private and special schools are conditionally permitted in the N-1 District.
- (b) The lot area, yard and height regulations shall be those designated for the applicable use in the district in which the school is proposed to be established.
- (c) The floor area of a private school shall be over 1,000 square feet.

- (d) Plans for exterior signs identifying the school and for the direction of pupils, visitors and traffic shall be approved by the Board of Appeals. All other types of exterior signs shall be prohibited.
  - (e) Landscape, buffering and screening plans shall be approved by the Board of Appeals.
  - (f) Plans for outdoor artificial lighting shall be approved by the Board of Appeals.
- (Ord. A-2248. Passed 4-9-01.)

#### **1147.15 PROFESSIONAL OFFICE.**

- (a) Professional offices are conditionally permitted in the R-3 District.
  - (b) The lot area, yard and height regulations shall be those designated for the applicable use in the district in which the professional office is proposed to be established.
  - (c) May be permitted only on the ground floor of a multi-family dwelling containing a minimum of ten units and fronting on a street designated as a primary or secondary thoroughfare by the Comprehensive Master Plan adopted by City Council.
  - (d) A building in connection with a professional office shall be set back at least forty feet from the centerline of an interior road.
  - (e) Landscape, buffering and screening plans shall be approved by the Board of Appeals.
  - (f) Those portions of a professional office abutting a residential use shall be landscaped, buffered and screened as approved by the Board of Appeals.
  - (g) Plans for exterior on-premises signs and outdoor artificial lighting shall be approved by the Board of Appeals. Off-premises signs shall be prohibited; all other exterior signs shall conform to the provisions of Chapter 1149.
- (Ord. A-2248. Passed 4-9-01.)

#### **1147.16 PUBLIC OR COMMERCIAL SANITARY FILL OR REFUSE DUMP.**

- (a) Public or commercial sanitary fills or refuse dumps are conditionally permitted in the N-1 District.
  - (b) The minimum lot area for a refuse dump shall be three acres.
  - (c) A refuse dump shall be permitted not closer than 200 feet to a residential use.
  - (d) Landscape, buffering and screening plans shall be approved by the Board of Appeals.
  - (e) Plans for outdoor artificial lighting shall be approved by the Board of Appeals.
  - (f) Filling or dumping shall not violate applicable Federal, State, or local laws.
- (Ord. A-2248. Passed 4-9-01.)

#### **1147.17 RADIO, TELEVISION OR TELEPHONIC COMMUNICATIONS TRANSMITTING TOWER.**

- (a) Radio, television or telephone communications transmitting towers are conditionally permitted in the N-1, S-1, R-1, R-2, B-2, I-1 and I-2 Districts.
- (b) A tower shall not be permitted closer than 200 feet to a residential use.
- (c) Plans for outdoor artificial lighting shall be approved by the Board of Appeals.
- (d) Exterior signs of any type shall be prohibited, except those required by Federal, State, or local laws.

- (e) The maximum height of a structure shall be that designated by the appropriate State or Federal agency.

(Ord. A-2248. Passed 4-9-01.)

**1147.18 TOURIST HOME; BOARDING OR LODGING HOUSE.**

- (a) Tourist homes are conditionally permitted in the R-2, R-3 and B-1 Districts. Boarding or lodging houses are conditionally permitted in the R-2 District.
- (b) The lot area, yard and height regulations shall be those designated for the applicable use in the district in which the home is proposed to be established.
- (c) Plans for exterior on-premises signs shall be approved by the Board of Appeals. Off-premises signs shall be prohibited; all other exterior signs shall conform to the provisions of Chapter 1149.
- (d) Plans for outdoor artificial lighting shall be approved by the Board of Appeals.

(Ord. A-2248. Passed 4-9-01.)

**1147.19 MOTOR VEHICLE SERVICE FACILITIES; PUBLIC GARAGE.**

- (a) Motor vehicle full service stations are conditionally permitted in the B-5 and I-1 Districts. Motor vehicle sales, rental or lease, a motor vehicle self service station/mini market, a motor vehicle wash facility, and a motor vehicle customizing shop is conditionally permitted in the B-5 District.
- (b) In the B-5 District, no motor vehicle full service station or motor vehicle sales and service establishment shall directly face or front the Court Square.
- (c) No motor vehicle full service station or public garage shall be permitted where any gasoline pump, oil draining pit or visible appliance for any such purpose, other than filling caps, is located within ten feet of any street lot line or within twenty-five feet of any S or R District, except where such pit or appliance is within an enclosed building.
- (d) Plans for exterior on-premises signs and outdoor artificial lighting shall be approved by the Board of Appeals. Off-premises signs shall be prohibited; all other exterior signs shall conform to the provisions of Chapter 1149.

(Ord. A-2248. Passed 4-9-01.)

**1147.20 EXTRACTION OF GAS.**

- (a) Extraction of gas is conditionally permitted in the I-2 District.
- (b) Any drilling site and operation of a gas well shall conform to all rules or regulations promulgated by any department or division of the State, unless otherwise specified below.
- (c) A time period shall be estimated for the length of time the site will be utilized.
- (d) No more than one drilling site per ten acres of land shall be permitted. In the case of a nonproducing well, one additional drilling site per ten acres may be allowed.
- (e) No drilling site shall be located within 500 feet of any residential or commercial zoning district, abutting property or structure.

- (f) No waste, sludge, water or effluence of any type where a gas well is being drilled shall in any manner be emptied or drained into any storm sewer, sanitary sewer or natural outlet within the City.
- (g) Drilling shall only be permitted during hours of daylight.
- (h) All vehicles, equipment, materials and other physical evidence of drilling shall be removed upon completion of gas extraction activities.
- (i) Gas extraction and related activities shall not violate applicable Federal, State, or local laws. (Ord. A-2248. Passed 4-9-01.)

#### **1147.21 HOME OCCUPATIONS.**

- (a) Home occupations are conditionally permitted in the N-1, S-1, R-1, R-2, R-3, B-1 and B-5 Districts.
- (b) Only members of the immediate family occupying such dwelling shall be employed in such occupation.
- (c) No more than one home occupation shall be permitted within any dwelling unit;
- (d) The Board of Appeals shall establish hours of operation for all home occupations;
- (e) Any advertisement of a home occupation via newspaper, periodical, radio, television, Internet, or public posting shall not include the address of where the home occupation is being conducted.
- (f) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent of the floor area of the first floor of the dwelling unit or building shall be used in the conduct of the home occupation.
- (g) The home occupation shall not be conducted in a manner that generates additional vehicular or pedestrian traffic, on-street or off-street vehicle parking demand, or vehicular deliveries other than those reasonably found in a residential dwelling.
- (h) There shall be no outdoor storage or display permitted, or other change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one sign, not exceeding one square foot in area, non-illuminated and mounted flat against the wall of the building.
- (i) No electrical or mechanical equipment shall be used, except such as may be used for domestic or household purposes or as deemed by the Board of Appeals to be of similar power and type, unless authorized by the Board. The Board may authorize machinery or equipment which is customarily found in the home associated with a hobby or avocation not conducted for gain or profit and may limit the hours of operation of such equipment or machinery.
- (j) Electrical or mechanical equipment which creates visible or audible interference in radio or television receivers, causes fluctuation in line voltage outside the dwelling unit or creates noise not normally associated with residential uses shall be prohibited.
- (k) No offensive noise, vibration, smoke or other particulate matter, odorous matter, heat, humidity, glare or other objectionable effect shall be produced therein or therefrom.
- (l) Such use shall not violate any restrictive covenant of the recorded subdivision where the home occupation is proposed. The written findings required per Section 1151.07 of

the Zoning Code shall contain a statement as to the compatibility of the proposed home occupation in relation to applicable restrictive covenants.

- (m) Such use shall not have a separate entrance from outside the building.
- (n) No commodity shall be sold upon the premises except that which is produced thereon.
- (o) The following uses shall be prohibited as home occupations:
  - (1) Appliance repair;
  - (2) Light assembly, manufacturing or fabricating;
  - (3) Motor vehicle repair, part sales, painting or body work, including re-upholstery, detailing or washing;
  - (4) Retail sales of goods not produced on the premises;
  - (5) Engine repair, lawn and garden equipment repair;
  - (6) Upholstery;
  - (7) Veterinary offices, kennels (including animal care and boarding);
  - (8) Warehousing of any type;
  - (9) Machine shop.
- (p) The Board may require one or more subsequent public hearings for the review of any conditionally approved home occupation. The purpose of such hearings shall be to determine if the approved home occupation continues to comply the applicable requirements of Chapters 1147 and 1151 of the Zoning Code. The requirement for subsequent review may be instituted as a condition for approval of the home occupation, or may be instituted any time after such approval. In addition:
  - (1) The Board may revoke a conditionally approved home occupation when it determines that conditions exist contrary to the applicable requirements of Chapters 1147 and 1151 of the Zoning Code.
  - (2) Any revocation of a conditionally approved home occupation shall require the Board to make findings in accordance with Section 1151.07 of the Zoning Code.
  - (3) The appeal process for any conditionally approved home occupation that is subsequently revoked shall be same as the appeal process for any other conditional use application that is denied by the Board.
- (q) A fire safety inspection of the area to be used for such home occupation shall be conducted by the Fire Department prior to occupancy.
- (r) All home occupations, owners and employees shall be registered with the City Income Tax Department.

(Ord. A-2248. Passed 4-9-01.)

#### **1147.22 PRIVATE BANQUET/RECEPTION FACILITY.**

- (a) Private banquet/reception facilities are conditionally permitted in the R-2 District.
- (b) At least fifty percent of the underroof area of the principal structure shall be used as the residential living area.
- (c) The owner and/or operator shall maintain an on-site residence.
- (d) The gross floor area of the principal building shall be over 4,000 square feet, per floor.

- (e) A site plan, showing existing and proposed parking areas, traffic circulation patterns, planned landscape improvements and stormwater detention areas, shall be approved by the Board.
  - (f) A schedule of the hours of operation shall be submitted to the Board for approval.
- (Ord. A-2248. Passed 4-9-01.)

**1147.23 OFF-PREMISES SIGN.**

- (a) Off-premises signs are conditionally permitted in the N-1 and B-1 Districts.
  - (b) All off-premises signs shall be subject to the provisions of Chapter 1149.
  - (c) In any N-1 District, no off-premises sign shall be within 300 feet of any lot used for residential purposes.
  - (d) Plans for outdoor artificial lighting shall be approved by the Board of Appeals.
- (Ord. A-2248. Passed 4-9-01.)

**1147.24 ANIMAL HOSPITAL; KENNEL.**

- (a) Animal hospitals and kennels are conditionally permitted in the B-2 District.
  - (b) Any enclosure, structure or building in which animals are kept shall be at least 100 feet away from any S or R District and at least fifty feet from any B-1 District.
  - (c) Any exercise runs shall be enclosed on all exterior sides by an opaque, well maintained fence or wall at least six feet in height.
  - (d) Plans for exterior on-premises signs and outdoor artificial lighting shall be approved by the Board of Appeals.
- (Ord. A-2248. Passed 4-9-01.)

**1147.25 CONTRACTOR STORAGE YARD; BUILDING MATERIAL YARD; LUMBER YARD.**

- (a) Contractor storage yards, building material yards and lumber yards are conditionally permitted in the I-2 District.
  - (b) All equipment and materials storage areas shall be enclosed on all exterior sides by a fence or wall at least six feet in height, and in cases where the storage area abuts a N, S or R District, the fencing shall be opaque.
  - (c) Plans for outdoor artificial lighting shall be approved by the Board of Appeals.
- (Ord. A-2248. Passed 4-9-01.)

**1147.26 DRY CLEANING ESTABLISHMENT.**

- (a) Dry cleaning establishments are conditionally permitted in the B-1 and B-5 Districts.
  - (b) There shall be no more than two clothes cleaning units for each establishment, neither of which shall have a rated capacity of more than sixty pounds.
  - (c) Dry cleaning activities shall not violate applicable Federal, State, or local laws.
- (Ord. A-2248. Passed 4-9-01.)

**1147.27 DWELLINGS IN THE B-1 DISTRICT.**

- (a) Single-family dwellings, two-family dwellings and multi-family dwellings are conditionally permitted in the B-1 District.
  - (b) There shall be at least one off-street parking space for each unit, located within 100 feet of the site (premises).
  - (c) Annual fire/safety and/or health inspections shall be required.
- (Ord. A-2248. Passed 4-9-01.)

**1147.28 DWELLINGS IN THE B-5 DISTRICT.**

- (a) Single-family dwellings, two-family dwellings and multi-family dwellings are conditionally permitted in the B-5 District.
  - (b) All dwelling units shall be located above the first floor (street level).
  - (c) There shall be at least one off-street parking space for each unit, located within 1,000 feet of the site (premises).
  - (d) Annual fire/safety and/or health inspections shall be required.
- (Ord. A-2248. Passed 4-9-01.)

**1147.29 FUNERAL HOME; MORTUARY**

- (a) Funeral homes and mortuaries are conditionally permitted in the R-3, O-1 and B-1 Districts per the following conditions:
    - (1) Plans for exterior on-premises signs and outdoor artificial lighting shall be approved by the Board of Appeals.
    - (2) There shall be one off-street parking space provided for every fifty square feet of floor area.
  - (b) Funeral homes are conditionally permitted in a R-2 District per the following conditions:
    - (1) The property has frontage along a Federal, State or county highway;
    - (2) The minimum lot area is 12,000 square feet;
    - (3) There is one off-street parking space for each 50 square feet of floor area;
    - (4) The minimum size of the principal building is 2,000 square feet;
    - (5) Detached on-premises signs shall be limited to 40 square feet in area and six feet in height.
- (Ord. A-2248. Passed 4-9-01.)

**1147.30 MUNICIPAL OR GOVERNMENTAL BUILDING.**

- (a) Municipal or government buildings are conditionally permitted in the N-1, S-1, R-1, R-2, R-3, O-1, B-1, B-2, I-1, and I-2 Districts.
  - (b) Plans for exterior signs shall be approved by the Board of Appeals.
  - (c) Landscape, buffering and screening plans shall be approved by the Board.
  - (d) Plans for outdoor artificial lighting shall be approved by the Board.
- (Ord. A-2248. Passed 4-9-01.)

**1147.31 PRIVATE CLUB; PRIVATE LODGE.**

- (a) Private clubs and lodges are conditionally permitted in the R-3 District.
- (b) Plans for exterior signs and outdoor artificial lighting shall be approved by the Board of Appeals.
- (c) Any parking areas abutting residential uses shall be landscaped, buffered and screened as approved by the Board.

(Ord. A-2248. Passed 4-9-01.)

**1147.32 PUBLIC UTILITY BUILDING.**

- (a) Public utility buildings are conditionally permitted in the N-1, S-1, R-1, R-2, R-3, B-1, B-2 and B-5 Districts.
- (b) Only public utility buildings that are necessary for the furnishing of adequate service to the area shall be permitted. No garages, general offices, outdoor storage yards or warehouses shall be permitted.
- (c) Plans for outdoor artificial lighting shall be approved by the Board of Appeals.
- (d) If the building abuts residential uses, it shall be landscaped, buffered and screened as approved by the Board of Appeals.

(Ord. A-2248. Passed 4-9-01.)

**1147.33 RESTAURANT; DRIVE-IN RESTAURANT; TAVERN.**

- (a) Restaurants and taverns are conditionally permitted in the B-1 District. Drive-in restaurants are conditionally permitted in the B-2 District.
- (b) Off-street parking shall be provided in accordance with Chapter 1141. Drive-in restaurants shall have an internal traffic and design plan approved by the Board of Appeals.
- (c) When abutting any N, S or R District, the off-street parking area shall be landscaped, buffered and screened as approved by the Board.

(Ord. A-2248. Passed 4-9-01.)

**1147.34 SELF-SERVICE STORAGE FACILITY.**

- (a) Self-service storage facilities are conditionally permitted in the B-2 District.
- (b) Plans for exterior business signs and outdoor artificial lighting shall be approved by the Board of Appeals.
- (c) All parking, loading and storage areas shall be constructed of a dust-free surface, such as asphalt, concrete or chip and seal.
- (d) No commercial warehousing shall be allowed in a self-service storage facility.
- (e) A stormwater management and erosion control plan shall be approved by the Board of Appeals.

(Ord. A-2248. Passed 4-9-01.)

**1147.35 GROUP HOME.**

- (a) Group homes are conditionally permitted in the R-3 District.
- (b) No group home shall be located within 1,000 feet from any other group home.
- (c) There shall be no change in the outside appearance of the house, and the house shall remain compatible with the rest of the neighborhood. Changes necessary to comply with code requirements shall be permitted.
- (d) The group home shall meet applicable fire, building and health codes prior to occupancy.

(Ord. A-2248. Passed 4-9-01.)

**1147.36 COMMERCIAL RECREATION FACILITY; BILLIARD ROOM OR POOL HALL.**

- (a) Commercial recreation facilities, billiard rooms and pool halls are conditionally permitted in the B-5 District.
- (b) No such uses shall be located within 100 feet of any S or R District.

**1147.37 COMMERCIAL PARKING FACILITY.**

- (a) Commercial parking facilities are conditionally permitted in the B-2 and B-5 Districts.
- (b) All commercial parking facilities shall have a minimum lot area of 5,000 square feet.
- (c) An internal traffic and design plan shall be approved by the Board of Appeals.
- (d) Commercial parking facilities shall meet applicable district and off-street parking regulations.

(Ord. A-2248. Passed 4-9-01.)

**1147.38 OUTDOOR STORAGE.**

- (a) Outdoor storage is conditionally permitted in the B-1, B-2, B-5, I-1 and I-2 Districts.
- (b) Such outdoor storage must be customarily incidental to a principal use in the district in which the outdoor storage is permitted.
- (c) Such outdoor storage is permitted in the rear yard only, subject to a minimum setback of 20 feet from an adjoining property line.
- (d) No outdoor storage shall face or be located within a one block perimeter of the Court Square within the B-5 District.
- (e) Where property lines separate a business or industrial district from a residential or office district, a visual and mechanical barrier, a minimum of six feet in height, shall be provided along or proximate to the common lot line, which may consist of any of the following:
  - (1) An evergreen hedge used with a chain link fence. Such hedge shall not be less than five feet in height.
  - (2) A solid fence of a non-deteriorating material.
  - (3) Masonry wall.
  - (4) Another suitable barrier approved by the Board of Appeals.

- (f) All outdoor storage must be located on the same zoning lot as the principal use.
- (g) Unless otherwise approved by the Board, areas used for such storage shall be furnished with an all weather hard surface of a material such as bituminous or Portland concrete cement.
- (h) Areas designated for required off-street loading and parking shall not be used for such outdoor storage.
- (i) Such storage shall not violate applicable Federal, State, or local laws specific to the use of solid, liquid and gaseous chemicals, materials or products.

(Ord. A-2248. Passed 4-9-01.)

**1147.39 OFF-STREET PARKING ACCESSORY TO ANY PRINCIPAL USE, EXCLUDING A DWELLING, NOT LOCATED ON THE SAME LOT AS THE PRINCIPAL USE.**

- (a) Such use is conditionally permitted in the R-2, R-3, O-1, B-1, B-2, B-5, I-1 and I-2 Districts.
- (b) When such off-street parking meets the definition of a commercial parking facility, the minimum lot area shall be 5,000 square feet.
- (c) An internal traffic and design plan shall be approved by the Board of Appeals.
- (d) Such off-street parking shall meet applicable district and off-street parking regulations.

(Ord. A-2248. Passed 4-9-01.)

**1147.40 MOTOR VEHICLE REPAIR GARAGE.**

- (a) Motor vehicle repair garages are conditionally permitted in the B-2 District.
- (b) All repair activity shall occur within a completely enclosed building.
- (c) Plans for exterior on-premises signs and outdoor artificial lighting shall be approved by the Board of Appeals. Off-premises signs shall be prohibited; all other exterior signs shall conform to the provisions of Chapter 1149.

(Ord. A-2288. Passed 1-14-02.)

**1147.41 EMERGENCY SHELTER**

- (a) Emergency shelter is conditionally permitted in the R-2, R-3, and O-1 Districts. Transitional shelter is conditionally permitted in the R-2 and R-3 Districts.
- (b) The occupancy load shall be limited to one person per every 200 square feet of gross floor area. Basement area shall not be included in the gross floor area calculation unless it has a direct, secondary means of access.
- (c) There shall be no change to the exterior appearance of the facility and the facility shall remain compatible with other dwellings/structures in the neighborhood.
- (d) No outside signage is allowed.
- (e) The facility must comply with all other applicable state and local codes, particularly fire and safety codes.

(Ord. A-2419. Passed 1-24-05)

**1147.42 SINGLE FAMILY RESIDENCE AS PART OF A FUNERAL HOME**

- (a) Single family residences as part of a funeral home or mortuary are conditionally permitted in the B-2 District.
- (b) The occupancy of the residence must be limited to the owner or operator of the funeral home.
- (c) The residence must be attached to the funeral home.

(Ord. A-2419. Passed 1-24-05)

**1147.43 CATERING**

- (a) Catering is conditionally permitted in the B-1 District
- (b) Off-street parking shall be provided in accordance with Chapter 1141.
- (c) When abutting any N, S, or R District, the off-street parking area shall be landscaped, buffered and screened as approved by the Board.
- (d) Space for loading and unloading of delivery vehicles and other large vehicles shall be provided off-street and shall be screened from abutting residential properties.

(Ord. A-2642. Passed 5-24-10)

**1147.44 LANDSCAPING SERVICE AND RETAIL BUSINESS**

- (a) Landscaping service and retail businesses are conditionally permitted in the I-1 and I-2 Districts
- (b) All equipment and materials storage areas shall be enclosed on all exterior sides by a fence or wall at least six feet in height, and in cases where the storage area abuts a N, S or R District, the fencing shall be opaque.
- (c) Plans for outdoor artificial lighting shall be approved by the Board of Appeals.

(Ord. A-2642. Passed 5-24-10)

## CHAPTER 1149 Signs

- 1149.01 Purpose.
- 1149.02 Definitions.
- 1149.03 Measurement of sign area.
- 1149.04 Off-premises signs.
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- 1149.06 On-premises signs in the B-5 District.
- 1149.07 Directional signs.
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- 1149.10 Sign responsibility.
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- 1149.14 Exempted signs.
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- 1149.16 Registration; permits; exceptions; fees.
- 1149.17 Existing signs.
- 1149.18 Sign locations relative to street right-of-way.

### **1149.01 PURPOSE.**

The purpose of this chapter is to permit such signs that will not, by their existence, size, location, construction or manner of display, endanger the public safety of individuals, confuse, mislead or obstruct the vision necessary for traffic safety, or otherwise endanger public health, safety and morals, and to permit and regulate signs in such a way as to support and complement land use objectives set forth in this Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

### **1149.02 DEFINITIONS.**

As used in this chapter:

- (a) "Architectural canopy sign" means an enclosed structure, possibly illuminated, that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the message integrated into its surface.
- (b) "Area of sign" means the total exterior surface computed in square feet of a sign having but one exposed surface, and one-half the total of all the exposed surface computed in square feet of a sign having more than one such surface.
- (c) "Changeable copy sign" means a sign that is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or the surface of the sign. This shall also include the changing of copy on advertising signs.
- (d) "Directional sign" means a detached sign that directs vehicular traffic to the proper point of ingress or egress or directs internal traffic flow on the lot where it is displayed.
- (e) "Modification, major" means a change to an existing permanent sign that results in structural alteration, relocation, replacement.

- (f) "Modification, minor" means a change to an existing permanent sign that does not involve structural alteration, relocation, replacement, or change of the sign face. This definition includes repainting, cleaning and minor repair that maintains the sign in a safe condition. For off-premises signs, this definition also includes the replacement of border trim and the change of poster panels, painted boards, and other changeable copy.
- (g) "Off-premises sign" means a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the lot where it is displayed, or only incidentally on such lot.
- (h) "On-premises sign" means a sign which directs attention to an activity, business or profession conducted on the lot where it is displayed. However, a real estate sign advertising the sale, rental or lease of the lot on which it is maintained, institutional bulletin boards and a professional or announcement sign accessory to a home occupation or a dwelling shall not be deemed a business sign.
- (i) "Permanent sign" means any sign with its own foundation or footing, or which is painted on or otherwise anchored to a building, wall or other permanent structure, and any of which are installed to achieve a lasting and enduring condition and location.
- (j) "Portable sign" means a temporary sign that can be easily moved by wheel or human motion from place to place. Such signs include, but are not limited to retail stands, and signs affixed or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operation of the business.
- (k) "Real estate sign" means any sign which is used to offer for sale, lease or rent the property on which the sign is located.
- (l) "Sign" means any device for visual communication that is used for the purpose of informing or attracting the attention of the general public.
- (m) "Temporary sign" means a sign which has no permanent attachment to a building or ground, including but not limited to, pole or post attachments, banners, pennants or any other sign that does not meet the definition of a permanent sign.
- (n) "Sidewalk sign" means a sign which is supported by a frame, such as an A-frame or sandwich sign placed on the sidewalk, that is not permanently attached or anchored to the ground or any other structure.

(Ord. A-2248. Passed 4-9-01; Ord. A-2350. Passed 5-27-03; Ord. A-2615. Passed 6-22-09.)

### **1149.03 MEASUREMENT OF SIGN AREA.**

The area of a sign face shall be computed by means of the smallest circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or housing.

(Ord. A-2248. Passed 4-9-01.)

**1149.04 OFF-PREMISES SIGNS.**

- (a) Off-premises signs are considered to be commercial uses, and shall be principally permitted in the B-1, B-2, I-1, and I-2 Districts, subject to the following provisions.
- (b) Off-premises signs shall meet the lot area, frontage and yard requirements for principal uses in the district in which they are located.
- (c) Off-premises signs shall not exceed 400 square feet in area.
- (d) Off-premises signs shall not exceed 45 feet in height, as measured from the elevation of the primary roadway to which the sign is oriented.
- (e) Only freestanding off-premises signs shall be permitted.
- (f) Two off-premises sign faces may be placed back-to-back on the same structure, subject to the following requirements:
  - (1) No more than two off-premises signs shall be attached together;
  - (2) Their faces shall oriented in opposite directions of traffic; and,
  - (3) Shall not be located more than 15 feet apart at the farthest point between the two faces.
- (g) Off-premises signs shall be spaced a minimum of 500 feet from another off-premises sign located on the same side of the street.
- (h) Off-premises signs shall be spaced a minimum of 300 feet from another off- premises sign located on the opposite side of the street.
- (i) No off-premises sign shall be located within 300 feet of any park, educational institution, private or public special school, library, church, hospital or similar institution.
- (j) No off-premises sign shall be erected in a manner so that the sign face is 200 lineal feet from the front or side lot line of any residential district along the same roadway as the same, and 40 feet from the front, side or rear lot line of any residential district not located on the same roadway.
- (k) Under no circumstances shall any part of an advertising sign be located within a public right-of-way.
- (l) All off-premises signs shall comply with applicable construction standards of the Ohio Basic Building Code.
- (m) Off-premises signs erected in accordance with the provisions of this chapter are not subject to further regulation, except that any major modification to an existing nonconforming off-premises sign shall require that it be brought into compliance within all applicable provisions of the Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

**1149.05 ON-PREMISES SIGNS.**

No exterior on-premises sign shall be erected unless it is accessory to a permitted use in the district in which the lot or parcel is located. All on-premises signs shall be classified as one of the following: an attached sign, a detached sign, an interstate sign or an architectural canopy sign.

- (a) Attached signs are signs which are physically attached to a building or fixed awning. In addition:
  - (1) The total area of all attached signs shall not exceed in the aggregate three square feet of area for each linear foot of building frontage for each business use;
  - (2) An attached sign shall project not more than two feet horizontally from a building facade;
  - (3) An attached sign shall project not more than three feet above the average height of the roof of the structure involved. However, no sign shall be erected on a roof;
  - (4) An attached sign may project downward from a fixed awning only so far as shall allow nine feet of vertical clearance from the ground to the bottom of the sign.
- (b) Attached signs in the B-5 District shall comply with the provisions of Section 1149.06.
- (c) Detached signs are signs which are not attached to a building and which advertise an on-premises business or activity and are twenty-five feet or less in height. There shall not be more than one detached business sign per business activity along each street frontage the use abuts, except as provided in Section 1149.08 hereof. Where commercial uses are located on the same property with common features, such as Planned Business Centers, all such business signs shall be supported by only one structure per lot with street frontage. In addition, detached signs:
  - (1) Shall not be located on or project over any right-of-way;
  - (2) Shall not be larger than one hundred square feet in area. On-premises signs in the N, S and R Districts shall not exceed forty-eight square feet in area;
  - (3) Shall not be higher than twenty-five feet in height. On-premises signs in the N, S and R Districts shall not exceed six feet in height;
  - (4) Shall not obstruct or adversely affect vision clearance or traffic visibility;
  - (5) Shall not have a bottom less than nine feet above ground if pedestrians may pass under the sign and not less than fifteen feet if vehicles may pass under the sign;
  - (6) Shall not be closer than twenty-five feet to the sign of an adjacent lot in any S or R District; and
  - (7) Signs for home occupations shall comply with the provisions of Section 1147.21(h)
- (d) Interstate signs are signs that are not connected to a building, that are less than 1,900 feet from the centerline of an interstate highway right-of-way, that are at least twenty-five feet in height and that are intended to be read from the interstate highway. A business may have one interstate sign in addition to any other permitted signs. In addition, an interstate sign shall:
  - (1) Not be closer than twenty-five feet to any right-of-way line;
  - (2) Not be closer than fifteen feet to any adjoining property line;
  - (3) Not be larger than four hundred square feet in area; and
  - (4) Not be higher than ninety feet, measured from the ground elevation on which it is located.

- (e) Architectural canopy signs are signs which are attached to a building with the message integrated into the canopy surface. In addition:
- (1) The total area of all architectural canopy signs shall not exceed in the aggregate two square feet of area for each linear foot of building frontage, and, if combined with attached signs, the total area of all signage shall not exceed in the aggregate three square feet of area for each linear foot of building frontage.
  - (2) In applying sign area limits, only the area occupied by the sign message will be used. The sign area shall be the rectangular space occupied by lettering or insignia and the space immediately surrounding such lettering or insignia.
  - (3) An architectural canopy sign shall project not more than three feet horizontally from a building facade over a public right-of-way, and not more than six feet horizontally from a building facade over private property.
  - (4) An architectural canopy sign shall have a minimum clearance of nine feet above the sidewalk grade or the edge of roadway grade nearest the sign and shall not be located closer than two feet from the curb of any roadway.
  - (5) Architectural canopy signs shall be limited to single-story buildings or to the first level only of multistory buildings, unless otherwise authorized by the Board of Appeals.
  - (6) Overall height should not exceed three feet above the average height of the roof line or the parapet wall of the building to which it is attached, and should not exceed the allowable building height for that zoning district.
  - (7) Principal graphics, copy, logos, etc., shall be limited to the face or street side of the structure.
  - (8) When an electric awning sign covers multiple store fronts, each store or tenant shall be allowed copy space no more than eighty percent of its store width in order to maintain adequate separation of tenant spaces.
  - (9) Any person applying for a permit to install an architectural canopy sign shall, before the permit is granted, file with the City Manager a three hundred thousand dollar (\$300,000) combined single-limit aggregate comprehensive general liability certificate of insurance, issued by an insurance company authorized to do business in the State, conditioned to indemnify and save harmless the City from any and all damages, judgments, costs or expenses which the City may incur or suffer by reason of the granting of such permit or which may result from the construction or maintenance of such architectural canopy sign.
- (Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05.)

**1149.06 ON-PREMISES SIGNS IN THE B-5 DISTRICT.**

The provisions of this section apply to all attached signs, detached signs, architectural canopy signs and sidewalk signs in the B-5 Court Square Business District. Unless otherwise stated, all other signs shall comply with applicable sections of Chapter 1149 of the Zoning Code.

- (a) Number of Signs.
  - (1) For each street level business, a maximum of one attached projecting sign, one attached wall sign, and one architectural canopy sign is permitted for each frontage on a public street.
  - (2) A business with an attached projecting sign shall not be permitted an architectural canopy sign.
- (b) Size of Signs. The size standards for all signs regulated by Section 1149.05 shall apply, except that:
  - (1) The maximum area for signs in aggregate per frontage shall be 15% of the area of the face of the building on which the signs are proposed.
  - (2) An attached projecting sign shall be permitted a minimum four square feet and a maximum sixteen square feet per side.
- (c) Location of Sign. The location standards for all signs regulated by Section 1149.05 shall apply, except that an attached projecting sign shall:
  - (1) Extend no further than five feet from the building wall.
  - (2) Have a maximum clearance of nine feet and a maximum height of fifteen feet above grade.
  - (3) Not extend into any part of an alleyway.
- (d) Detached on-premises signs shall not be located within one-block perimeter of the Court Square.
- (e) Insurance Required. No permit shall be issued for any sign extending into the public right-of-way until the same insurance requirements that apply to architectural signs, as regulated by Section 1149.05(e)(9), are met.
- (f) Sidewalk Sign. Each street-level business in the B-5 District is permitted one sidewalk sign per the following specifications:
  - (1) The sidewalk sign shall be placed directly in front of the business for which the sign is advertising.
  - (2) The sidewalk sign shall be a maximum of four feet in height.
  - (3) The face of the sidewalk sign shall be a maximum of eight square feet in area.
  - (4) The sidewalk sign shall be placed with a maximum of twelve inches between the sign and the building facade.
  - (5) The sidewalk sign shall be permitted for a period not to exceed twelve months.
  - (6) The sidewalk sign shall not be composed of the following materials: paper, cardboard, or rough-sawn lumber.
  - (7) The sidewalk sign shall be maintained; no chipped, scaled, or worn paint, rust, splinters or sharp edges shall be permitted.
  - (8) The hours for sidewalk sign displays shall be limited to 7:00 a.m. to 9:00 p.m.(Ord. A-2248. Passed 4-9-01; Ord. A-2350. Passed 5-27-03.)

**1149.07 DIRECTIONAL SIGNS.**

Directional signs may be permitted in addition to detached business signs, subject to the following provisions:

- (a) All directional signs shall comply with Section 1149.11, and no such sign shall be permitted in the right-of-way of any street or alley.
- (b) The area of a directional signs shall not exceed two square feet in area.
- (c) Not more than one directional enter sign and one directional exit sign shall be permitted for each curb cut or other permitted access to a public right-of-way. Directional signs other than enter and exit signs are permitted as needed.
- (d) No lettering or sign message identifying the business logo, name, address or telephone number shall be permitted.
- (e) The maximum height for an enter/exit sign shall be three feet, and such sign shall not obstruct or adversely impact traffic visibility.

(Ord. A-2248. Passed 4-9-01.)

**1149.08 PORTABLE AND TEMPORARY SIGNS.**

The intent of this section is to recognize the individual or entity who occasionally desires to display a temporary commercial message in conjunction with a permitted land use, and to provide the time, place, and manner limitations allowing certain sign types for these purposes. It is further intended to recognize the negative affect temporary signs can have on the attractiveness of a community, including the deterioration of the natural environment, the clutter temporary signs contribute to the landscape, the distractions and obstructions this sign type may cause to motorist, and the hazards that the aforementioned concerns may cause. Thus, this section is intended to establish regulations that allow portable and temporary signs without their becoming a nuisance to the community.

Portable and temporary signs shall be permitted as an accessory use to a lawfully established principal, conditional or nonconforming use conducted on the premise, subject to the limitations included in this code. All portable and/or temporary signs shall comply with Section 1149.05 and the following provisions:

- (a) All electrical work and equipment involved with a portable or temporary sign shall conform to the National Electric Code (NEC).
- (b) No sign portable or temporary by intent or design shall be used as a permanent sign.
- (c) It shall be the applicant's or owner's responsibility to maintain a portable or temporary signs in good condition. Signs or banners that are torn, damaged, faded, or otherwise in a state of disrepair must be immediately replaced or removed.
- (d) It shall be the applicant's or owner's responsibility to remove all portable and temporary signs when the time limit for the sign has expired.
- (e) Location
  - (1) Portable and temporary signs shall be permitted on the building face or in the yard adjacent to any building elevation facing a street, parking lot, drive through lane, or service drive.

- (2) Portable and temporary signs shall be permitted only on the same lot or parcel as the business or activity for which it is displaying information.
  - (3) No temporary sign shall be placed in the right-of-way or attached to utility poles, or traffic control signs or devices.
- (f) Number
- (1) Not more than one portable or temporary sign shall be permitted for each street frontage.
  - (2) A sidewalk sign and a temporary sign shall not be displayed at the same time.
- (g) Period of Display
- (1) Portable and/or temporary signs shall be displayed for no more than one-hundred and five (105) days in any calendar year.
  - (2) Temporary signs shall be permitted for an additional period of thirty-five (35) days per calendar year only if the temporary sign is an attached sign per Section 1149.08(h).
  - (3) Temporary and/or portable signs may be displayed for a period of time not to exceed 35 consecutive days. A lapse of seven days must occur before another temporary sign can be displayed
  - (4) Twenty days per calendar year will be subtracted as a penalty from a business activity's allotted number of temporary sign display days when that activity maintains a temporary sign past the expiration date for the permit, or displays a temporary sign without a permit.. If the business activity has fewer than 20 allotted temporary sign days remaining for the calendar year in which the penalty is imposed, the balance of those penalty days will be subtracted from that activity's allotted temporary sign days in the following calendar year. This penalty is in addition to all other penalties as established in Section 1155.99.
- (h) Attached temporary signs or banners are temporary/ portable signs that are attached to a permanent building or structure. Attached temporary signs shall comply with the following provisions as well as Sections 1149.08(a) through (g).
- (1) The sign or banners shall be mounted flat against the façade of the building or structure so that no part of the sign or banner projects more than four inches from the façade. The banner or sign must be secured, at a minimum at all four corners
  - (2) Attached sign or banner size is limited to 10% of the area of the façade of the building or structure on which it is mounted, with a maximum of 50 square feet.
  - (3) The mounting location of the banner shall not obstruct any ingress, egress, fire exits or ventilation openings
  - (4) Attached temporary signs or banners shall not be mounted on the roof, eaves, gutter, or overhang.
- (i) Detached temporary signs or banners are temporary / portable signs that are supported by poles, uprights, or braces extending from the ground or from an object on the ground, or any sign located on the ground, providing that no part of the sign is attached to any part of a building.
- (1) The maximum height for a detached (freestanding) portable or temporary sign shall be six feet.

- (2) The area of portable or temporary signs shall not exceed fifty square feet in area per face.

(Ord. A-2248. Passed 4-9-01; Ord. A-2350. Passed 5-27-03; Ord. A-2419. Passed 1-24-05; Ord. A-2619. Passed 8-10-09)

#### **1149.09 PROFESSIONAL OR ANNOUNCEMENT SIGNS AND INSTITUTIONAL BULLETIN BOARDS.**

Professional or announcement signs accessory to a dwelling or a home occupation shall not exceed one square foot in area. A church, educational institution, special or private school, community center, public library or other public or institutional building may have for its own use a bulletin board not over twelve square feet in area which, if not attached flat against a building, shall be at least ten feet distant from all street right-of-way lines.

(Ord. A-2248. Passed 4-9-01.)

#### **1149.10 SIGN RESPONSIBILITY.**

- (a) The sign owner shall be responsible for sign maintenance and repair.
- (b) If any sign reaches a state of disrepair and is deemed unsafe by the Building Inspector, and is not properly renovated, it shall be condemned and an order issued for immediate removal at the expense of the sign owner or property owner.
- (c) A sign shall be removed by the sign owner or property owner when the use to which it related is abandoned or changed for ninety days or longer, or the City shall cause such sign to be removed.
- (d) In case any sign is installed, erected, constructed or maintained in violation of any of the terms of this Zoning Code, the City Manager or his or her designee shall notify the property owner or lessee in writing thereof to alter such sign so as to comply with this Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

#### **1149.11 LIGHTING.**

Any sign illumination shall be so arranged as to confine the illumination to the sign, avoid glare or other disturbance on adjacent property and shield the source of illumination. No flashing shall be permitted where such flashing would interfere with or distract from a traffic control sign or signal or normal traffic visibility. Such flashing shall not be permitted on portable or temporary signs.

(Ord. A-2248. Passed 4-9-01.)

#### **1149.12 REAL ESTATE SIGNS.**

- (a) Real estate signs advertising the sale, rental or lease of the lot on which they are maintained shall be set back at least one foot from the edge of the sidewalk, and in areas without sidewalks at least one foot from the right-of-way line of the street. In addition, real estate signs shall not exceed:

- (1) In the aggregate, eight square feet in area on an individual lot in residential districts or fifteen square feet in commercial or industrial districts;
  - (2) One hundred forty-eight square feet in area on any commercial or industrial lot in which said sign is specifically intended for view from a major thoroughfare.
- (b) Subdivision developments of three or more lots may display a real estate development sign, in lieu of individual lot signs, not exceeding fifteen square feet in area for the first three lots and one additional square foot in area for each additional lot available at the time of such sign installation.
  - (c) There shall be not more than one real estate sign permitted for each individual lot or property for sale or rental.
  - (d) All real estate signs shall be removed within ten days of sale or rental of the property affected by such sign.
- (Ord. A-2248. Passed 4-9-01.)

### **1149.13 SIGNS ON SERVICE STATION DISPENSING PUMPS AND CANOPIES.**

- (a) Signs on service station dispensing pumps shall be permitted in addition to attached business signs, subject to the following provisions:
    - (1) The total attached sign area shall not exceed fifty percent of the pump facade area.
    - (2) No attached sign shall project more than one inch horizontally from the dispensing pump facade.
    - (3) No attached sign shall project more than two feet above any part of the dispensing pump.
  - (b) Signs on service station canopies shall be permitted in addition to attached business signs, subject to the following provisions:
    - (1) The total attached sign area shall not exceed one square foot per lineal foot of canopy frontage.
    - (2) Such sign shall not project above or below any part of the canopy facade.
- (Ord. A-2248. Passed 4-9-01; Ord. A-2660. Passed 10-26-10)

### **1149.14 EXEMPTED SIGNS.**

The following signs are not subject to the provisions of this Zoning Code:

- (a) Governmental signs for control of traffic and other regulatory purposes, street signs, warning signs, railroad crossing signs and signs of public service companies for the purpose of safety.
  - (b) Flags, emblems and insignia of any governmental agency, subdivision and temporary displays of patriotic religious, charitable or civic character.
  - (c) Commemorative plaques placed by recognized historical agencies.
  - (d) Signs within a stadium, open air theatre, shopping center, arena or other use which signs can be viewed only by persons within such stadium, open air theatre, shopping center, arena or other use.
- (Ord. A-2248. Passed 4-9-01.)

**1149.15 PROHIBITED SIGNS.**

- (a) No sign shall be placed in a public right-of-way, except publicly owned signs such as traffic control signs, nor shall any sign be attached or otherwise applied to trees, bus shelters, utility poles, benches, trash receptacles, newspaper vending machines, or any other unapproved supporting structure in a public right-of-way.
  - (b) No sign shall occupy areas designated for off-street parking.
  - (c) No sign of any classification shall be installed, erected, or attached in any form, shape or manner to a fire escape or any door or window giving access to any fire escape.
  - (d) No sign shall revolve, rotate, whirl, spin or otherwise make use of motion to attract attention, nor shall any sign employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion.
  - (e) No sign shall be located on a roof.
- (Ord. A-2248. Passed 4-9-01.)

**1149.16 REGISTRATION; PERMITS; EXCEPTIONS; FEES.**

- (a) No person shall install any sign or perform any related sign work within the City without first obtaining a certificate of registration from the Building Inspector. The provisions of this section shall not apply to a property owner as an individual desiring to perform work on his own premises. However, any sign work performed by such property owner shall be subject to all other provisions of this chapter.
- (b) A sign permit shall be obtained from the Planning Coordinator for the installation or major modification of all signs with the exception of real estate signs, political signs or garage sale signs. A sign permit shall be required to change, alter or replace signs, except for the message content of advertising and changeable copy signs.
- (c) The sign installer or owner shall make application for the permit on forms provided by the City Manager or his or her designee and, in the case of permanent business signs, shall submit an application for a permit to the State of Ohio.
- (d) Plans shall accompany the application which indicate the location and structural stability of the sign, and in the case of electrical signs, comply with the National Electrical Code, as adopted in Section 1301.05 of the Building Code.
- (e) If deemed necessary, these plans shall bear the seal of a registered engineer or architect.
- (f) The fee schedule for sign permits shall be in accordance with Section 1309.11 of the Building Code.

(Ord. A-2248. Passed 4-9-01; Ord. A-2350. Passed 5-27-03.)

**1149.17 EXISTING SIGNS.**

- (a) A sign legally in existence at the time of the passage of this section but which does not conform with the regulations of this or subsequent amendments shall be construed as a legal nonconforming sign.
- (b) Legal nonconforming signs may be maintained and structural parts repaired and restored to a safe condition if required subject to the following limitations:

- (1) Any non conforming sign which is damaged more than seventy-five percent of its fair market value above the foundation at the time of the damage by fire, flood, explosion, earthquake, war, riot or act of God or man shall not be reconstructed and used as before such calamity. If it is less than seventy-five percent damaged, it may be reconstructed or used, provided that such reconstruction or use is accomplished within twelve months of such calamity.
- (2) A legal nonconforming sign shall immediately lose its legal nonconforming status, and must be brought into conformance with these regulations or be removed if the sign is altered structurally; or if it is enlarged, relocated, or replaced.

(Ord. A-2248. Passed 4-9-01; Ord. A-2615. Passed 6-22-09.)

#### **1149.18 SIGN LOCATIONS RELATIVE TO STREET RIGHT-OF-WAY.**

- (a) No signs shall be permitted to be located on or project over any street right-of-way except existing signs regulated by Section 1149.05, attached projecting signs as regulated by Section 1149.05(a)(2); architectural canopy signs as regulated by Section 1149.05(e); or sidewalk signs as regulated by Section 1149.06(f);
- (b) No advertising or business sign shall be erected or maintained within 660 feet of each edge of the right-of-way of the interstate highway located within the corporate limits of the City, except the following:
  - (1) Advertising or business signs which are erected or maintained on property for the purpose of setting forth or indicating:
    - A. The name and address of the owner, lessee or occupant of such property.
    - B. Information required by law to be posted or displayed thereon.
    - C. The name of the business or profession conducted on such property, or which identifies the goods or services produced or sold on such property.
  - (2) Signs indicating the sale or leasing of the property upon which they are located.
  - (3) Directional or other official signs and signals erected or maintained by the City, State or other public agency having jurisdiction.

(Ord. A-2248. Passed 4-9-01; Ord. A-2350. Passed 5-27-03; Ord. A-2419. Passed 1-24-05 .)

## CHAPTER 1150

### Wireless Telecommunications Facilities

- 1150.01 Definitions.
- 1150.02 Standards applicable to all wireless telecommunication facilities.
- 1150.03 Co-location requirements.
- 1150.04 Wireless telecommunication facilities principally permitted.
- 1150.05 Wireless telecommunication facilities conditionally permitted.
- 1150.06 Abandonment of tower.
- 1150.07 Application and review requirements.
- 1150.08 Variances.
- 1150.09 Separability.

#### **1150.01 DEFINITIONS.**

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this section. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- (a) "Antenna." Any panel, whip, dish, or other apparatus designed for communications through the sending and/or receiving of electromagnetic waves, excluding any support structure other than brackets.
- (b) "Antenna support structure." Any building or other structure other than a tower which can be used for location of wireless communication facilities.
- (c) "Applicant." Any person that applies for a permit pursuant to this Zoning Code.
- (d) "Application." The process by which an applicant submit a request and indicates a desire to be granted a conditional use permit under the provisions of this Zoning Code. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the City of Sidney concerning such a request.
- (e) "Co-location." The use of a wireless telecommunication facility by more than one wireless telecommunication provider.
- (f) "Emergency." A reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.
- (g) "Engineer." Any engineer licensed by the State of Ohio.
- (h) "Equipment shelter." The structure in which electronic receiving and relay equipment for a wireless telecommunication facility is housed.
- (i) "FAA." The Federal Aviation Administration and any legally appointed, designated or elected agent or successor.

- (j) "FCC." The Federal Communication Commission and any legally appointed, designated or elected agent or successor.
- (k) "Monopole." A support structure constructed to a single, self-supporting hollow metal tube securely anchored to a foundation.
- (l) "Person." Any natural person, firm, partnership, association, corporation, or other legal entity, private or public, whether for profit or not-for-profit.
- (m) "Tower." A self-supporting lattice, guyed, or monopole structure constructed from grade which supports wireless telecommunication facilities. The term tower shall not include amateur radio operator's equipment, as licensed by the FCC.
- (n) "Wireless telecommunication facility." Any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC which a person seeks to locate or have installed upon a tower antenna support structure. However, the term wireless communication facilities shall not include:
  - (1) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial.
  - (2) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.
  - (3) Antennas use by amateur radio operators.
- (o) "Zoning Code." The Zoning Code of the City of Sidney, Ohio.  
(Ord. A-2248. Passed 4-9-01.)

**1150.02 STANDARDS APPLICABLE TO ALL WIRELESS TELECOMMUNICATION FACILITIES.**

- (a) Construction Standards. All wireless telecommunication facilities and support structures shall be certified by an engineer licensed in the State of Ohio to be structurally sound and, at a minimum, in conformance with the Ohio Basic Building Code.
- (b) Natural Resource Protection Standards. The location of the wireless communication facility shall comply with all natural resource protection standards established either in this Zoning Code or in other applicable regulations, including those for flood plain, wetlands, ground water protection, and steep slopes.
- (c) Historic or Architectural Standards Compliance. Any application to locate a wireless telecommunication facility on a building or structure that is listed on a Federal, state, or local historic register, or is in an historic district established by the City of Sidney, Ohio, shall be subject to review by the City of Sidney, Ohio Downtown Design Review Board to insure architectural and design standards are maintained.
- (d) Color and Appearance Standards. All wireless telecommunication facilities shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communication Commission, Federal Aviation Administration, and/or by historical or architectural standards imposed under Section 1150.02 of this Zoning Code. All appurtenances shall be aesthetically and architecturally compatible with the surrounding environment by the means of camouflage deemed acceptable by the City.

- (e) Advertising Prohibited. No advertising is permitted anywhere upon or attached to the wireless telecommunication facility.
- (f) Artificial Lighting Restricted. No wireless communication facility shall be artificially lit except as required by the Federal Aviation Administration.
- (g) Co-location. All wireless telecommunication facilities shall be subject to the co-location requirements set forth in Section 1150.03 of the Zoning Code.
- (h) Abandonment. All wireless telecommunication facilities shall be subject to the abandonment requirements set forth in Section 1150.06 of this Zoning Code.
- (i) Security Enclosure Required. All towers and equipment shelters shall be enclosed either completely or individually. The City and co-locators shall have reasonable access. No fence shall be required top of a building or other structure if access to the roof or top of the structure or building is secure.
- (j) Existing Vegetation and Buffer Plantings. Existing vegetation (trees, shrubs, etc.) shall be preserved to the maximum extent possible. Buffer plantings shall be located around the perimeter of the security enclosure as deemed appropriate by the Board. An evergreen screen may be required around the perimeter of the property in lieu of such buffer plantings.
- (k) Access Control and Emergency Contact. "No Trespassing" signs shall be posted around the wireless telecommunications facility, along with a telephone number of who to contact in the event of an emergency.

(Ord. A-2248. Passed 4-9-01.)

### **1150.03 CO-LOCATION REQUIREMENTS.**

- (a) Jurisdictional Study of Potential Public Sites. In order to encourage the location of a wireless telecommunication facility on publicly-owned property, the City shall undertake an identification of publicly-owned properties that the City determines are suitable for such use. The City shall regularly update such identification and make the results of such available to the public.
- (b) Exemption of Proof of Co-location Availability. Persons locating a wireless telecommunication facility upon a publicly owned property identified in the study mentioned in Section 1150.03(a) above shall be exempted from the requirements herein regarding presentation of proof that co-location is not available. However, persons locating a wireless telecommunication facility on publicly-owned property shall continue to be subject to the requirements contained in Section (co-location design required) 1150.03(d) below.
- (c) Exemption from Certain Requirements. Persons locating a wireless telecommunication facility on publicly owned property identified by the City to be suitable for such purposes shall be exempt from the requirements of Section 1150.06, Section 1150.07 and Section 1150.08.
- (d) Co-location Design Required. No new tower shall be constructed in the City unless such tower is capable of accommodating at least one additional wireless telecommunication facility owned by another person.

- (e) Technically Suitable Space. Authorization for a tower shall be issued only if there is not technically suitable space reasonably available on an existing tower or structure within the geographic area to be served.
- (f) Application Requirements. With the permit application, the applicant shall list the location of every tower, building, or structure within a reasonable proximity that could support the proposed antenna. The applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, building, or structure within such area. If another communication tower owned by another party within such area is technically suitable, applicant must show that an offer was made to the owner of such tower to co-locate an antenna on a tower owned by the applicant or reciprocal terms within the City, and the offer was not accepted. If such co-location offer has not been attempted by the applicant, then such other tower is presumed to be reasonably available.

(Ord. A-2248. Passed 4-9-01.)

**1150.04 WIRELESS TELECOMMUNICATION FACILITIES PRINCIPALLY PERMITTED.**

- (a) Towers which are 200 feet or less in height shall be a principally permitted use in the following zones: B-2 Community Business, I-1 Light Industrial, and I-2 General Industrial Zoning Districts.
  - (1) The following minimum requirements shall apply to any principally permitted tower:
    - A. Monopoles, lattice towers, and guyed towers permitted.
    - B. Maximum height shall be 200 feet.
    - C. The minimum setback shall be 200 feet from nearest N, S or R District line or any residential use, otherwise same as for principal use in district where located.
    - D. All equipment shelterhouses shall meet height and setback requirements for any accessory use as specified in the district where it is located.
- (b) Antennas shall be a principally permitted use in the following zones: B-1 Local Business, B-2 Community Business, B-5 Court Square Business, I-1 Light Industrial and I-2 General Industrial Zoning Districts.
  - (1) The following minimum requirements shall apply to any principally permitted antenna:
    - A. Maximum height shall be 15 feet.
    - B. If equipment shelter is not located on or attached to the building then it shall meet the height and setback requirements for an accessory building in that district.

(Ord. A-2248. Passed 4-9-01.)

**1150.05 WIRELESS TELECOMMUNICATION FACILITIES CONDITIONALLY PERMITTED.**

- (a) Towers which are over 200 feet in height may be permitted only if expressly authorized by the Board of Appeals, subject to Chapter 1147 and in the following zones: B-2 Community Business, I-1 Light Industrial, and I-2 General Industrial Zoning Districts.
  - (1) The following conditions shall apply to any conditionally permitted tower:
    - A. Maximum height - as determined by the ZBA.
    - B. Setbacks - the distance to the nearest N, S or R district line or any residential use shall be greater than the height of the tower, otherwise same as for principal use in district where located.
    - C. Equipment shelter - shall meet height and setback requirements for an accessory use as specified in the district where it is located.
- (b) Towers may be permitted in any N, S or R District only if authorized by the Board of Appeals subject to Chapter 1147.
  - (1) The following conditions shall apply to conditionally permitted towers in a N, S, or R District:
    - A. Permitted on property with a public institutional use (e.g. park, library, government, school or utility).
    - B. Monopoles, only.
    - C. Applicant must present sufficient evidence as to why it is not technically feasible to locate in a more appropriate non-residential zone.
    - D. Maximum height - to be determined by the Board.
    - E. Setback - 200 feet from nearest N, S or R District line or any residential use, otherwise same as for principally permitted structures.
    - F. Equipment shelter - shall meet the height and setback requirements for a principal building.
- (c) Antennas may be a conditionally permitted use in the following zones: N-1 Non Urban, S-2 Suburban Residence, R-1 Single-Family Residence, R-2 Single and Two-Family Residence and R-3 Multi-Family Residence Zoning Districts, only if expressly authorized by the Board of Appeals subject to Chapter 1147.
  - (1) The following conditions shall apply to conditionally permitted antennas in a N, S, or R District:
    - A. Property with public institutional use, such as park, library, government building, school or utility.
    - B. R-3 District on any non-residential building or any residential building four or more stories in height.
    - C. Maximum height - 15 feet.
    - D. Equipment shelter - shall meet height and setback requirements for a principal use as specified in the district where it is located.
- (d) Required Buffer. A buffer shall be planted in accordance with Section 1150.02(j).
- (e) Vehicular Access. Vehicular access to the equipment shelter shall be via the existing circulation system and be paved with asphalt or concrete.

(Ord. A-2248. Passed 4-9-01.)

**1150.06 ABANDONMENT OF TOWER.**

- (a) Required Notification. All providers utilizing towers shall present a report to the City notifying it of any tower facility located in the City whose use will be discontinued and the date the use will cease. Such report shall be filed with the City thirty days prior to the cessation date. If at any time the use of the facility is discontinued for one hundred and eighty days, the City Manager (or his or her designee) may declare the facility abandoned. The one hundred and eighty day period excludes any dormancy period between construction and the initial use of the facility. The owner/operator of the facility and of the property will receive written notice from the City Manager (or his or her designee) and be instructed to either reactivate use of the facility within one hundred and eighty days, or dismantle and remove the facility. If reactivation or dismantling does not occur, the City will either remove the facility or will contract to have the facility removed and assess the costs to the private property owner.
- (b) Required Notice. The City must provide the wireless telecommunication facility owner and the private property owner thirty day notice and an opportunity to be heard before the Zoning Board of Appeals before initiating such action. After such notice has been provided, the City shall have the authority to initiate proceedings to either acquire the tower and any appurtenances attached thereto at the current fair market value at that time, or in the alternative, order the demolition of the tower and all appurtenances.
- (c) Right to Public Hearing by Owner. The City shall provide the wireless telecommunication facility owner and the private property owner with the right to a public hearing before the Zoning Board of Appeals, which public hearing shall follow the thirty day notice required in Section 1150.06(b). All interested parties shall be allowed an opportunity to be heard at the public hearing.
- (d) Order of Abatement or Demolition. After a public hearing is held pursuant to Section 1150.06(c) the City may order the abatement or demolition of the tower. The City may require the private property owner to pay for all expenses necessary to acquire or demolish the tower.

(Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05.)

**1150.07 APPLICATION AND REVIEW REQUIREMENTS.**

- (a) Required Information for Applications. All applications for wireless telecommunication facilities, including monopole towers, shall include the information required under this section.
- (b) Plot Plan Required. When a proposed wireless telecommunication facility or antenna support structure is to include a new tower, a plot plan at a scale of not less than one inch equals one hundred feet shall be submitted. This plot plan shall indicate all building and land uses within two hundred feet of the proposed facility. Aerial photos and/or renderings may augment the plot plan.
- (c) Photo Simulations Required. Photo simulations of the proposed wireless telecommunication facility from affected residential properties and public rights-of-way taken at designated locations shall be provided.
- (d) Technical Necessity. The applicant shall demonstrate that the telecommunication tower must be located where it is proposed in order to provide adequate coverage to the

applicant's service area. There shall be an explanation of why a tower and the proposed site is technically necessary.

- (e) Review by Radio Frequency Engineer. The evidence submitted by the applicant shall be reviewed by a radio frequency engineer, who will support or refute the evidence.
- (f) Land Owner Support and Access.
  - (1) Where the wireless telecommunication facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property supports the application and vehicular access is provided to the facility.
  - (2) The applicant shall also present information that the private property owner is aware of his fiscal responsibility to pay all expenses should the City demolish and remove the wireless communication facility in accordance with the procedures described in this chapter.
- (g) Required Site and Landscaping Plan. The applicant shall present a site and landscaping plan showing the following:
  - (1) Specific placement of the wireless telecommunication facility on the site.
  - (2) The location of existing structures, trees, and other significant site features.
  - (3) Type and locations of plant materials used to screen facilities.
  - (4) The proposed color of the facilities.
- (h) Co-location and Removal Agreement. The applicant shall present signed statements indicating that:
  - (1) The applicant agrees to allow for the potential co-location of additional wireless telecommunication facilities by other providers on the applicants structure or within the same site locations; and
  - (2) The applicant agrees to remove the facility within one hundred eighty days after its use is discontinued.
- (i) Denial by Jurisdiction. Any decision to deny a request to place, construct or modify a wireless telecommunication facility and/or tower shall be in writing and supported by evidence contained in a written record.

(Ord. A-2248. Passed 4-9-01.)

#### **1150.08 VARIANCES.**

Any request to deviate from any of the requirements of this chapter shall require approval of a variance in conformance with the procedures set forth in Chapter 1151 of this Code of Ordinances.

(Ord. A-2248. Passed 4-9-01.)

#### **1150.09 SEPARABILITY.**

Should any section, clause, paragraph, sentence, item, phrase, or provision of this chapter be declared by a Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1151 Board of Appeals**

- 1151.01 Establishment; membership; term.
- 1151.02 Hearings; organization; rules.
- 1151.03 Powers and duties.
- 1151.04 Modification of code application; granting of variances.
- 1151.05 Procedures and requirements for administrative appeal.
- 1151.06 Procedures and requirements for granting of variances.
- 1151.07 Procedures and requirements for conditional use permits.
- 1151.08 Filing fees for appeal.

### **1151.01 ESTABLISHMENT; MEMBERSHIP; TERM.**

A Board of Appeals is hereby established in and for the City. Such Board shall consist of five members, appointed by Council, at least one of whom shall be a member of the City Planning Commission. One member shall be appointed for one year, one for two years, one for three years, one for four years and one for five years, and their successors shall be appointed for five years each. The term of the City Planning Commissioner shall expire at the same time as his term on such Commission expires. A member appointed to fill a vacancy shall serve for the unexpired term.

(Ord. A-2248. Passed 4-9-01.)

### **1151.02 HEARINGS; ORGANIZATION; RULES.**

The hearings of the Board of Appeals shall be made public. However, the Board may go into executive session for discussion but not to vote on any case before it. The Board shall organize annually and elect a President, Vice-President and Secretary. The Board shall act by resolution in which three members must concur. The Board shall adopt, from time to time, such rules and regulations as it may deem necessary to carry into effect the provisions of this Zoning Code, all of which rules and regulations shall operate uniformly in all cases, and shall furnish a copy of the same to the City Manager. All of its resolutions and orders shall be in accordance therewith.

(Ord. A-2248. Passed 4-9-01.)

### **1151.03 POWERS AND DUTIES.**

The powers and duties of the Board of Appeals shall be as follows:

- (a) Administrative Appeals. The Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the City Manager or his or her designee in the enforcement of this Zoning Code.
- (b) Variances.
  - (1) Variances on lots. The Board shall authorize, upon appeal, in specific cases, such variance from the terms of this Zoning Code as will not be contrary to the public interest, where, owing special conditions of the land (such as, an irregular shaped

lot; a lot of exceptional topography; or an exceptionally narrow, shallow or irregular lot, existing and of record at the time of the passage of this Zoning Code), a literal enforcement of the provisions of this Zoning Code will result in unnecessary hardship or practical difficulty.

- (2) Variations on existing or proposed buildings, structures, facilities and signs. The Board may grant the projection of an existing or proposed building, structure, facility or sign into a required yard or at a height greater than permitted, to secure an addition practical in its construction and arrangement. Such projection shall not exceed fifty percent (50%) of the required depth or width of the required yard, nor shall it exceed twenty five percent (25%) of maximum height or size regulations for the applicable use.
  - (3) Use variances not authorized. The provisions for variances within this Zoning Code shall not be construed to permit variances which shall in effect amend the use provisions in this Zoning code. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Zoning Code in the zoning district involved, or any use expressly or by implication prohibited by the terms of this Zoning code in such district.
- (c) Conditional Uses. The Board shall grant or deny conditional use permits, as provided in Chapter 1147 and Section 1151.07 of the Zoning Code.
- (d) Nonconforming Uses. The Board may permit the extension or substitution of a nonconforming use as provided in Chapter 1109 of the Zoning Code.
- (e) Additional Powers and Duties.
- (1) The Board may permit residence in an accessory building located in the rear of a principal building with no immediate street frontage only for domestic employees of residents of the principal building.
  - (2) The Board shall, in accordance with rules and regulations which may be adopted by it, determine all questions concerning the exact location of district boundary lines.
  - (3) The Board shall have the power to subpoena witnesses, administer oaths and punish for contempt and may require the production of documents under such regulations as it may establish.
- (Ord. A-2248. Passed 4-9-01.)

#### **1151.04 MODIFICATION OF CODE APPLICATION; GRANTING OF VARIANCES.**

Where the strict application of any provision of this Zoning Code could result in undue hardship or practical difficulty upon the owner of specific property, or where there is a reasonable doubt as to any provision of this Zoning Code or the Zone Map as applied to such property, the Board of Appeals, upon receipt of a request by such owner, may modify such strict application or interpret the meaning of this Zoning Code so as to relieve such hardship or difficulty. However, such modification and interpretation shall remain in harmony with the general purpose of this Zoning Code, so that the public health, safety, convenience, comfort, prosperity or general welfare will be conserved and substantial justice done. No variance in the application of the provisions of this Zoning Code shall be made by the Board relating to buildings, land or

premises not existing or to be constructed unless, after a public hearing, the Board makes specific findings that support conclusions as listed in Section 1151.06 of the Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

#### **1151.05 PROCEDURES AND REQUIREMENTS FOR ADMINISTRATIVE APPEAL.**

- (a) Authorization. Section 1151.03(a) of the Zoning Code permits An appeal from a decision of the City Manager or his or her designee with respect to the interpretation or application of this Zoning Code. Such appeal may be taken to the Zoning Board of Appeals by any person aggrieved, or his or her agent, or by any officer of the City affected by such decision of the City Manager or his or her designee.
- (b) Notice of Appeal. Appeals to the Board shall be filed within twenty days after the decision of the City Manager or his or her designee by filing a written notice of appeal to the Board.
- (c) Stay of Proceedings. An appeal stays all proceedings to furtherance of the action appealed from, unless the City Manager or his or her designee from whom the appeal is taken certifies to the Board after the notice of appeal is filed with him or her, that by reason of facts stated in the application, a stay would in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the City Manager or his or her designee from whom the appeal is taken on due cause shown.
- (d) Hearing on Appeal. The Board shall select a time and place for the public hearing of an appeal and shall publish one notice of the time, place and date of such hearing in a newspaper of general circulation of the City at least seven days prior to the hearing, and give written notice thereof to all owners of property located within 200 feet in any direction of the property affected by the appeal.
- (e) Decision on Appeal. The Board shall have all powers of the City Manager or his or her designee with respect to such decision. The concurring vote of at least three members of the Board in attendance at the public hearing shall be necessary to reverse or modify any decision of the City Manager or his or her designee under this Zoning Code. The Board shall render a written decision containing relevant findings of fact without unreasonable delay after the close of the hearing, and in all cases, within forty-five days after the close of the hearing.

(Ord. A-2248. Passed 4-9-01.)

#### **1151.06 PROCEDURES AND REQUIREMENTS FOR GRANTING OF VARIANCES.**

- (a) Authorization. As permitted by Section 1151.03(b) of the Zoning Code, the Board may authorize, upon appeal in specific cases, such variance from the terms of this Zoning Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Zoning Code would result in undue hardship or practical difficulty. Variances from the regulations of this Zoning Code shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed have been met by the applicant. Variances shall not be granted on

the grounds of convenience or profit, but only where strict application of the provisions of this Zoning Code will result in undue hardship or practical difficulty.

- (b) Appeal for Variance. Variances shall only be considered in cases where an application for a zoning permit has been previously filed with the City Manager or his or her designee and rejected. The applicant, or his or her agent, shall file an appeal for variance on forms provided by the City. The completed application form shall also be accompanied by one copy of a plot plan showing:
  - (1) The boundaries and dimensions of the lot.
  - (2) The size and location of existing and proposed improvements, including, but not limited to, buildings, structures, facilities, signs, lighting, accessways, walks, off-street parking spaces, loading berths and landscaping.
  - (3) The proposed use of all parts of the lot and improvements. The relationship of the variance requested to the standards set by this Zoning Code.
- (c) Public Hearing on Variance. The Board shall select a time and place for the public hearing on a variance application and shall publish one notice of the time, place and date of such hearing in a newspaper of general circulation of the City at least seven days prior to the hearing, and give written notice thereof to all owners of property located within 200 feet in any direction of the property affected by the variance application.
- (d) Standards for Variance. The Board shall not grant a variance unless it can, in each specific case, make specific findings of fact directly based upon the particular evidence presented to it, that support conclusions that:
  - (1) There are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or classes of use in the same vicinity and district.
  - (2) Such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and district but which is denied to the property in question.
  - (3) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and district in which the property is located.
  - (4) The granting of such variance will not alter the land use characteristics of the vicinity and district, diminish the marketable value of adjacent land and improvements or increase the congestion in the public streets.
- (e) Modifications. In granting a variance, the Board may impose such modifications, safeguards and restrictions upon the premises benefitted by the variance as may be necessary to comply with the standards set forth in subsection (d) hereof to reduce or minimize potential injurious affects of such variance upon neighboring properties, and to carry out the general purpose and intent of this Zoning Code. Such modifications, safeguards and restrictions may be in the form of approval of a lesser variance for the projection, height or size of an existing or new building, structure, facility or sign than requested by the applicant, however, may not result in a use variance as prohibited by Section 1151.03(b)(3) of the Zoning Code.

- (f) Decision on Variance. The Board shall have all powers of the City Manager or his or her designee with respect to such decision. The concurring vote of at least three members of the Board in attendance at the public hearing shall be necessary to concur with, reverse or modify any decision of the City Manager or his or her designee. The Board shall render a written decision containing relevant findings of fact without unreasonable delay after the close of the hearing, and in all cases, within forty-five days after the close of the hearing.
- (1) In cases where the board concurs with the written recommendations and findings of the City Manager or his or her designee, such written recommendations and findings shall constitute the written decision of the Board.
  - (2) In cases where the Board's decision differs from the written recommendation and findings of the City Manager or his or her designee, the Board majority shall collectively, draft, approve, and formally submit written recommendations and findings based on their decision to the secretary of the board. Such written recommendations and findings shall be read verbatim by the president of the board at the same meeting in which they are formally submitted.
- (g) Period of Validity. A variance granted by the Board shall terminate at the end of one year from date on which the Board grants the variance, unless within such one year period, the applicable zoning permit is obtained.
- (Ord. A-2248. Passed 4-9-01; Ord. A-2419. Passed 1-24-05.)

#### **1151.07 PROCEDURES AND REQUIREMENTS FOR CONDITIONAL USE PERMITS.**

- (a) Authorization. Specifically listed conditional uses are provided within the zoning district regulations in recognition that such uses, although often desirable, will more intensely affect the surrounding area in which they are located than the permitted principal uses of such zoning district.
- The intent of the procedure for authorizing a conditional use is to set forth the development standards and criteria for locating and developing a conditional use in accordance with the nature of the surrounding area, conditions of development and with regard to appropriate plans.
- (b) Application for Conditional Use. Any person owning or having an interest in property may file an application to use such property for one or more of the conditional uses listed in Chapter 1147 of the Zoning Code, in the zoning district in which the property is situated. An application for conditional use permit shall be filed with the City Manager or his or her designee. The applicant, or his or her agent, shall file a conditional use application on forms provided by the City. The completed application form shall also be accompanied by one copy of a plot plan showing:
- (1) The boundaries and dimensions of the lot.
  - (2) The size and location of existing and proposed improvements, including, but not limited to, buildings, structures, facilities, signs, lighting, accessways, walks, off-street parking spaces, loading berths and landscaping.
  - (3) The proposed use of all parts of the lot and improvements.

- (4) The relationship of the conditional use requested to the standards set by this Zoning Code.
- (c) Public Hearing on Conditional Use. The Board shall select a time and place for the public hearing on a conditional use application and shall publish one notice of the time, place and date of such hearing in a newspaper of general circulation of the City at least seven days prior to the hearing, and give written notice thereof to all owners of property located within 200 feet in any direction of the property affected by the conditional use application.
- (d) Standards for Conditional Use. The Board shall not grant a conditional use unless it can, in each specific case, make specific findings of fact directly based upon the particular evidence presented to it, that support conclusions that:
  - (1) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals or general welfare;
  - (2) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or will not substantially diminish and impair property value within the neighborhood;
  - (3) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
  - (4) Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;
  - (5) Adequate measures have been or will be taken to provide ingress and egress so designed to minimize traffic congestion in the public streets; and
  - (6) The conditional use will be located in a district where such use is permitted and that all requirements set forth in this Zoning Code and applicable to such conditional use will be met.
- (e) Additional Conditions. In granting a conditional use, Section 1147.06 of the Zoning Code permits the Board to impose additional conditions upon the premises benefitted by the conditional use as may be necessary to comply with the standards set forth in subsection (d) hereof to reduce or minimize potential injurious affects of such conditional use upon neighboring properties, and to carry out the general purpose and intent of this Zoning Code.
- (f) Decision on Conditional Use. The concurring vote of at least three members of the Board in attendance at the public hearing shall be necessary to grant a conditional use. The Board shall render a written decision containing relevant findings of fact without unreasonable delay after the close of the hearing, and in all cases, within forty-five days after the close of the hearing.
  - (1) In cases where the board concurs with the written recommendations and findings of the City Manager or his or her designee, such written recommendations and findings shall constitute the written decision of the Board.
  - (2) In cases where the Board's decision differs from the written recommendation and findings of the City Manager or his or her designee, the Board shall collectively, draft, approve, and formally submit written recommendations and findings based on their decision to the secretary of the board. Such written recommendations and

findings shall be read aloud by the president of the board at the same meeting in which they are formally submitted.

- (g) Period of Validity. A conditional use granted by the Board shall terminate at the end of one year from date on which the Board grants the conditional use, unless within such one year period, a zoning permit is obtained.

(Ord. A-2248. Passed 4-9-01.)

#### **1151.08 FILING FEES FOR APPEAL.**

Any petition, application or appeal on which the Board is required to act shall be accompanied by a filing fee as established by the administrative fee schedule published by the Department of Community Development, which shall be paid to the Finance Department, and no part of it shall be returnable to the petitioner, applicant or appellant.

(Ord. A-2248. Passed 4-9-01.)

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## **CHAPTER 1153 Amendments; Zone Map Changes**

- 1153.01 Submission to Planning Commission required.
- 1153.02 Planning Commission public hearing.
- 1153.03 Council public hearing.
- 1153.04 Failure to notify; effect.
- 1153.05 Application for Zone Map amendment.
- 1153.06 Application for Zoning Code amendment or change.
- 1153.07 Withdrawal of application.
- 1153.08 Re-filing of application.
- 1153.09 Identification of original and duplicate Zone Maps.
- 1153.10 Filing fees for amendments.

### **1153.01 SUBMISSION TO PLANNING COMMISSION REQUIRED.**

In accordance with the provisions of Ohio R.C. 713.10, Council may from time to time amend or change by ordinance the number, shape or area of districts established on the Zone Map or the regulations set forth in this Zoning Code, but no such amendment or change shall become effective unless the proposed amendment or change is first submitted to the City Planning Commission for approval, disapproval or suggestions and such Commission shall have been allowed a reasonable time, not less than thirty days, for consideration and report.

(Ord. A-2248. Passed 4-9-01.)

### **1153.02 PLANNING COMMISSION PUBLIC HEARING.**

Before submitting its recommendations and report to Council, the City Planning Commission shall hold a public hearing on the proposed amendment or change and shall advertise a legal notice of the time, place and date of such hearing in a newspaper of general circulation in the City at least fourteen days prior to the hearing. The Commission shall also notify all property owners who, in the opinion of the Commission, may be affected by such amendment or change, in accordance with such rules of procedure as the Commission may establish.

(Ord. A-2248. Passed 4-9-01.)

### **1153.03 COUNCIL PUBLIC HEARING.**

Council shall hold a public hearing before the adoption of the proposed amendment or change and shall publish one notice of the time, place and date of such hearing in a newspaper of general circulation within the City at least fourteen days prior to the hearing, provided that if the proposed amendment or change rezones or redistricts ten or fewer parcels of land, written notice of the hearing shall also be mailed to the owners of all properties located within 200 feet in any direction of the property affected by the proposed amendment, and also to any other property owners that Council may determine as being affected by the proposed change. Such notice shall be mailed by first-class mail at least ten days before the date of the hearing.

(Ord. A-2248. Passed 4-9-01.)

**1153.04 FAILURE TO NOTIFY; EFFECT.**

Failure to notify as hereinabove provided shall not invalidate an ordinance, provided that such failure was not intentional. The omission of the name of any owner or occupant of property who may, in the opinion of the Planning Commission, be affected by such amendment or change, shall not invalidate any ordinance passed hereunder, it being the intention of this section to provide, as far as may be possible, for notice to the persons substantially interested in the proposed change that an ordinance is pending before Council that propose to make a change in the Zone Map or the regulations set forth in this Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

**1153.05 APPLICATION FOR ZONE MAP AMENDMENT.**

Any application to amend the Zone Map shall be made on forms specified by the Planning Coordinator, and include the following:

- (a) Name, mailing address, and phone number of property owner;
- (b) Name, mailing address, and phone number of applicant;
- (c) Present use;
- (d) Present zoning district;
- (e) Proposed uses for planned developments;
- (f) Proposed zoning district;
- (g) A vicinity map to scale of the area on the Zone Map proposed to be amended, showing property lines, roads, existing and proposed zoning, and such other items as the Planning Coordinator may require;
- (h) A legal description of the area on the Zone Map proposed to be amended;
- (i) A fee as established by Council;
- (j) The names and addresses of the owners of all properties within 200 feet of any part of the property to be amended; and,
- (k) Verification by the applicant that all information in the application is true and correct to the best of his knowledge.

(Ord. A-2248. Passed 4-9-01.)

**1153.06 APPLICATION FOR ZONING CODE AMENDMENT OR CHANGE.**

Any application to amend regulations set forth in this Zoning Code shall be made on forms specified by the Planning Coordinator, and include the following:

- (a) Name, mailing address, and phone number of applicant;
- (b) Existing text proposed to be amended or changed;
- (c) Proposed text amendment or change;
- (d) Statement explaining the purpose for the proposed text amendment or change.

(Ord. A-2248. Passed 4-9-01.)

**1153.07 WITHDRAWAL OF APPLICATION.**

Any request to withdraw an application to amend or change the Zone Map or regulations set forth in this Zoning Code shall be provided in writing to the Planning Coordinator at least seventeen days prior to the public hearing scheduled before Planning Commission or Council. Withdrawal of an application shall have the same effect as denial of the application by Council.

(Ord. A-2248. Passed 4-9-01.)

**1153.08 RE-FILING OF APPLICATION.**

When an application to amend or change the Zone Map or regulations set forth in this Zoning Code has been denied by Council, no new application for the same proposed amendment or change shall be filed within six months of the date the previous denial became effective. Any new application shall require a public hearing before Planning Commission prior to the required public hearing before Council.

(Ord. A-2248. Passed 4-9-01.)

**1153.09 IDENTIFICATION OF ORIGINAL AND DUPLICATE ZONE MAPS.**

The original Zone Map shall be identified by the signature of the Mayor and attested by the Clerk of Council. The original Zone Map shall be kept on file with the Clerk of Council who may provide such duplicate copies as may be necessary for the general public and for the proper administration of this chapter. All such duplicate copies shall be clearly marked "DUPLICATE" and shall contain a date of reproduction. The original Zone Map shall, in all cases be the final authority as to the status of current zoning districts irrespective of the number of duplicate copies that may be in existence. In the event that the original Zone Map becomes damaged, destroyed, or lost, Council may, by ordinance, adopt a new original Zone Map that shall supersede the prior original Zone Map. The new original Zoning Map may correct drafting or other errors or omissions in the prior original Zone Map, but no such corrections shall have the effect of amending the Zone Map or subsequent amendments thereof.

(Ord. A-2248. Passed 4-9-01.)

**1153.10 FILING FEES FOR AMENDMENTS.**

Any petition for an amendment to this Zoning Code, except by the Planning Commission or the Board of Appeals, shall be accompanied by a filing fee of one hundred and fifty dollars (\$150.00), which shall be paid to the Finance Department. No part of such fee shall be returned to the petitioner.

(Ord. A-2248. Passed 4-9-01; Ord. A-2468. Passed 1-9-06.)

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## **CHAPTER 1155 Enforcement and Penalty**

- 1155.01 Enforcement by City Manager or his or her designee.
- 1155.02 Building permit and certificate of occupancy or site plan approval permit required; filing of plans.
- 1155.03 Issuance of certificate of occupancy or site plan approval permit.
- 1155.04 Equitable remedies.
- 1155.99 Penalty.

### **1155.01 ENFORCEMENT BY CITY MANAGER OR HIS OR HER DESIGNEE.**

The provisions of this Zoning Code shall be enforced by the City Manager or his or her designee. Appeal from the decisions of the City Manager or his or her designee may be made to the Board of Appeals as provided herein.

(Ord. A-2248. Passed 4-9-01.)

### **1155.02 BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY OR SITE PLAN APPROVAL PERMIT REQUIRED; FILING OF PLANS.**

Within the City, no structure or improvement or use of land may be altered, changed, placed, erected or located on platted or unplatted lands, unless the structure, improvement or use and its location conform to this Zoning Code and a building permit and/or certificate of occupancy or site plan approval permit for such structure, improvement or use has been obtained from the City Manager or his or her designated agent. Every application for a building permit shall be accompanied by building plans and a plot plan drawn to scale in accordance with this Zoning Code, and showing the lot number, the fronting street, the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of existing buildings and structures, the line within which the proposed building or structure shall be erected or altered, the existing or intended use of each building or part of a building, the number of families or housekeeping units the building is designed to accommodate and such other information in regard to the lot and neighboring lots and their use as may be necessary to determine and provide for the enforcement of the provisions of this Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

### **1155.03 ISSUANCE OF CERTIFICATE OF OCCUPANCY OR SITE PLAN APPROVAL PERMIT.**

- (a) No owner shall use or permit the use of any building or premises or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partially, in its use or structure until a certificate of occupancy site plan approval permit has been issued by the City Manager or his or her designated agent. Such certificate of occupancy site plan approval permit shall show that such building or premises or a part thereof, and the proposed use thereof, are in conformity with the provisions of this Zoning Code. It shall be the duty of the City Manager or his or her designee to issue a certificate of

occupancy, provided that he or she is satisfied that the building or premises and the proposed use thereof conform to all of the requirements of this Zoning Code and such other codes or ordinances which are in effect in the City.

- (b) Under such rules and regulations as may be established by him, the City Manager or his or her designee may issue a temporary certificate of occupancy for a part of a building.
- (c) Upon written request from the owner or tenant, the City Manager or his or her designee shall issue a certificate of occupancy for any building or premises existing at the time of the enactment of this Zoning Code, certifying after inspection the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this Zoning Code.

(Ord. A-2248. Passed 4-9-01.)

#### **1155.04   EQUITABLE REMEDIES.**

In case any building or structure is or is intended to be erected, constructed, reconstructed altered or converted, or any building, structure or premises is or is intended to be used in violation of or contrary to the provisions of this Zoning Code, the City Manager or his or her designated agent is hereby authorized, in addition to other remedies set forth in the statutes of the State and in this Zoning Code, to institute an action to enjoin, or any other appropriate action or proceeding to prevent, such erection, construction, reconstruction, alteration, conversion or use.

(Ord. A-2248. Passed 4-9-01.)

#### **1155.99   PENALTY.**

Whoever violates any of the provisions of this Zoning Code shall be guilty of a minor misdemeanor and shall be fined one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. A-2248. Passed 4-9-01.)