

CODIFIED ORDINANCES OF LAKEWOOD
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TITLE ONE - General Provisions

- Chap. 1101. Title, Purpose, Intent.
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 Chap. 1105. Districts Established, Map.
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CHAPTER 1101
Title, Purpose, Intent

- | | |
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| 1101.01 Title.
1101.02 Comprehensive Plan.
1101.03 Purposes.
1101.04 Intent. | 1101.05 Separability clauses.
1101.06 Interpretation.
1101.07 Use of Code section references. |
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1101.01 TITLE.

This part shall be known as the “*Zoning Code of the City of Lakewood*” and the *Zoning Map* and *Building Line Map*, and all notations and references thereon, shall be considered a part of the *Zoning Code* as if fully set forth herein.
 (Ord. 91-95. Passed 10-7-96.)

1101.02 COMPREHENSIVE PLAN.

The *Zoning Code* of the *City of Lakewood* is based upon the Comprehensive Plan for land use and development within the City known as the “*Lakewood Community Vision.*”
 (Ord. 91-95. Passed 10-7-96.)

1101.03 PURPOSES.

The *Zoning Code* of the *City of Lakewood* is adopted to promote and protect the public health, safety, convenience, comfort, prosperity, and general welfare of the citizens of the City by dividing the City into districts in which specific uses and structures are permitted and regulated, thereby assuring the compatibility of uses and practices within districts; stabilizing said uses, conserving property values, and securing the most appropriate use of land within the City.
 (Ord. 91-95. Passed 10-7-96.)

1101.04 INTENT.

The *Zoning Code* of the *City of Lakewood* is intended to:

- (a) Guide the future development of the City in accordance with the land use plan herein set forth and to bring about the gradual conformity of all uses to such plan.
- (b) Provide adequate open space for light and air, prevent over-crowding of lots, prevent excessive concentration of population, and prevent uncoordinated development.
- (c) Establish zoning patterns, which allow efficient extension of sewer, water, and other public utilities, and for development of schools, parks, and other public facilities.
- (d) Locate uses in relation to vehicular and pedestrian traffic so as to promote efficient movement of and cause minimal interference with same, thereby promoting public health and safety.
- (e) Protect the character and value of residential, business, industrial, institutional, and public uses and to insure the orderly and beneficial development of same.
(Ord. 91-95. Passed 10-7-96.)

1101.05 SEPARABILITY CLAUSES.

Should any provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

(Ord. 91-95. Passed 10-7-96.)

1101.06 INTERPRETATION.

(a) Unless otherwise stated, all uses not specified as permitted are prohibited.

(b) Unless otherwise stated, all requirements are deemed to be the minimum.

(Ord. 91-95. Passed 10-7-96.)

1101.07 USE OF CODE SECTION REFERENCES.

Throughout this *Zoning Code*, a reference to chapters and sections means the chapters and sections of the Ordinances unless otherwise indicated.

(Ord. 91-95. Passed 10-7-96.)

CHAPTER 1103
Definitions

1103.01 General terms; interpretation.

1103.02 Definitions.

CROSS REFERENCES

State regulations - see Ohio R.C. 3722.01(A)(7)(8), 3722.01(A)(7),
5104.01, 5104.04

Conditional Use - see P.& Z. Ch. 1161

Permitted Uses in Commercial Districts - see P.& Z. Schedule 1129.02

Sexually Oriented Businesses - see P.& Z. Ch. 1163

Similar Use - see P.& Z. 1173.03

Variances - see P.& Z. 1173.04

Signs - see BLDG. Ch. 1329

1103.01 GENERAL TERMS; INTERPRETATION.

- (a) “Shall” is to be interpreted as mandatory and not directory.
- (b) “Used for” or “occupied for,” as applied to any lot or structure, shall be construed to include “arranged for,” “designed for,” “designated for,” and “intended for.”
- (c) “Board” means Board of Zoning Appeals; “*City*” means *City of Lakewood, Ohio*; “Commission” means Planning Commission; “Commissioner” means Building Commissioner; “Director” means Director of the Department of Planning and Development; “Engineer” means *City* Engineer.
(Ord. 91-95. Passed 10-7-96.)
- (d) “Charter” means the SECOND AMENDED CHARTER OF THE CITY OF LAKEWOOD; “*Code*” means the *Zoning Code*; “Ordinance” or “Ordinances” means the Codified Ordinances of the *City of Lakewood*.
(Ord. 124-05. Passed 2-6-06.)
- (e) “Residence” and/or “residential” refers to any use associated with a dwelling.
- (f) “Sign” shall have the same meaning as in Chapter 1329 of the Building Code, unless otherwise specified in this *Code*.

(g) All words in the present tense include the future and the singular includes the plural unless the content clearly indicates the contrary.

(h) Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

(i) The word “lot” shall include “parcel,” “piece,” “remainder,” the word “building” shall include any structure of every kind.
(Ord. 91-95. Passed 10-7-96.)

1103.02 DEFINITIONS.

The following terms and phrases shall have, for purposes of the *Code*, the meanings as set forth in this section.

- (a) **ABUT** or **ABUTTING** means having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.
- (b) **ACCESSORY BUILDING OR STRUCTURE** means a detached building or structure which is wholly related but clearly incidental to and detached from the principal building or structure which is located on the same lot, including but not limited to garages, gazebos, tool and storage sheds, and free-standing decks.
- (c) **ACCESSORY USE** means a subordinate use which is wholly related but clearly incidental to that of the principal permitted use in a given district, located on the same lot or within the same structure as the principal use.
- (d) **ALTERATION** means, as applied to a building or structure, a change or rearrangement in any structural part, any service equipment, or any means of egress; or an enlargement, whether by extending on a side or by increasing in height; or adding a dividing wall; or the moving from one location or position to another.
- (e) **ADULT FAMILY HOME** means a residence or facility that provides accommodations to three (3) to five (5) unrelated adults and provides supervision and personal care service to at least three (3) of the unrelated adults.
(ORC 3722.01(A)(7))
- (f) **ADULT GROUP HOME** means a residence or facility that provides accommodations to six (6) to sixteen (16) unrelated adults and provides supervision and personal care service to at least three (3) of the unrelated adults.
(ORC 3722.01(A)(8))
- (g) **ADULT MEDIA** means magazines, books, photographic reproductions, videotapes, movies, slides, compact discs in any format (e.g., cd-rom, cd-r, cd-rw), digital video discs in any format (e.g., dvd), other devices used to reproduce or record computer images, or other print, video, film, electronic, computer-based, analog, or digital media characterized by an emphasis on matter depicting, describing or related to “specified sexual activities” or “specified anatomical areas.”

- (h) **ADULT MEDIA STORE** means an establishment that rents and/or sells adult media and that meets any of the following tests:
- (1) More than forty percent (40%) of the gross public floor area is devoted to adult media; or
 - (2) More than forty percent (40%) of the stock in trade consists of adult media; or
 - (3) A media store which advertises or holds itself out in any forum as a **SEXUALLY ORIENTED BUSINESS** by use of such terms as “X-rated,” “XXX,” “adult,” “sex,” “nude,” or otherwise advertises or holds itself out as a **SEXUALLY ORIENTED BUSINESS**, pursuant to Chapter 1163.
- (i) **ADULT NOVELTY STORE** means a business offering goods for sale or rent and that meets any of the following tests:
- (1) More than five percent (5%) of the stock in trade of the business consists of “sexually-oriented novelties or toys” and more than five percent (5%) of the gross public floor area of the business is devoted to the display of “sexually-oriented novelties or toys”; or
 - (2) It offers for sale items from any two (2) of the following categories: “adult media,” “sexually-oriented novelties or toys,” apparel or other items marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items constitutes more than ten percent (10%) of the stock in trade of the business and occupies more than ten percent (10%) of the gross public floor area of the business; or
 - (3) Which advertises or holds itself out in any forum as a **SEXUALLY ORIENTED BUSINESS** by use of such terms as “sex toys,” “marital aids,” “X-rated,” “XXX,” “adult,” “sex,” “nude,” or otherwise advertises or holds itself out as a **SEXUALLY ORIENTED BUSINESS**, pursuant to Chapter 1163.
- Adult Novelty Store** shall not include any establishment which, as a substantial portion of its business, offers for sale or rental to persons employed in the medical, legal or education professions anatomical models, including representations of human genital organs or female breasts, or other models, displays, and exhibits produced and marketed primarily for use in the practice of medicine or law or for use by an educational institution.
- (j) **ANTENNA** means any structure designed or modified to transmit or receive any electromagnetic energy signal from any relay station.
- (k) **ARBOR** means an enclosure of closely planted trees, vines, or shrubs, which are either self-supporting or supported on a framework; also, the supporting framework itself.
- (l) **AWNING** means a projection over a door, window, porch, or balcony, fixed or retractable, for protection against the weather.
- (m) **BASEMENT** means a story of a building located partly below, but having at least one-half (½) of its height above the average finished grade of the lot as determined by the Commissioner; excavations made for the purpose of window wells and/or retaining walls shall not be considered in the determination of the finished grade.

- (n) **BED AND BREAKFAST ESTABLISHMENT** means an owner-occupied residential single-family structure with no more than three (3) guest rooms to accommodate lodgers for compensation and serving breakfast to lodgers only. The provision of lodging and breakfast shall be subordinate to the principal use of the structure.
- (o) **BOOK STORE** is defined as an exclusive term, identifying a category of business that may include adult media but that is not regulated as an adult media store. In this context, book store means a retail store offering for sale or rent books, magazines or other printed material for consumption or enjoyment off the premises, provided that any store in which material falling within the definition of “adult media” constitutes more than forty percent (40%) of the stock in trade and/or occupies more than forty percent (40%) of the gross public floor area shall be considered an “adult media store”. Reference Section 1129.15 for book stores in which adult media constitutes more than ten percent (10%) but no more than forty percent (40%) of the stock in trade or occupies more than ten percent (10%) but not more than forty percent (40%) of the gross public floor area.
- (p) **BUILDING** means any structure having a roof supported by columns or walls designated, intended, or used for the housing or enclosure of persons, animals, or chattels.
- (q) **BUILDING HEIGHT** means the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs.
- (r) **BUILDING LINE** means a line parallel to a public or private right-of-way measured from same the distance in feet as shown on the *Building Line Map*.
- (s) **CANOPY** means an overhanging shelter or shade covering.
- (t) **CELLAR** means a story of a building located partly below and having less than one half ($\frac{1}{2}$) of its height above the average finished grade of the lot
- (u) **CHURCH OR RELIGIOUS INSTITUTION** means a building originally and exclusively designed for, and/or used primarily for, public worship; includes “chapel,” “church,” “mosque,” “synagogue,” and “temple” and customarily related uses and activities.
- (v) **CONDITIONAL USE** means a use permitted in a district other than a use permitted by right which is allowed only under certain conditions and requiring a conditional use permit and approval of the Commission.
- (w) **CONDITIONAL USE PERMIT** means a Certificate of Use and Occupancy issued by the Commissioner on approval of the Commission to allow a use other than a use permitted by right in a particular district on a specific lot.
- (x) **CORNER LOT** means a lot, two (2) non-parallel sides of which abut a public or private right-of-way.
- (y) **CURB LEVEL** means the grade of the curb in front of the mid-point of the lot, as established by the Commissioner.

- (z) **DAY-CARE, TYPE A FAMILY HOME** means a permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for seven (7) to twelve (12) children at one time or a permanent residence of the administrator in which child day-care is provided for four (4) to twelve (12) children at one time if four (4) or more children at one time are under two (2) years of age. In counting children for the purposes of this division, children under six (6) years of age who are related to a licensee, administrator, or employee and who are on the premises of the **Type A** home shall be counted. **Type A Family Day-Care Home** does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. **Type A Family Day-Care Home** and **Type A Home** do not include any child day camp. (ORC 5104.01)
- (aa) **DAY-CARE, TYPE B FAMILY HOME** means a permanent residence of the provider in which child day-care is provided for one (1) to six (6) children at one time and in which no more than three (3) children are under two (2) years of age at one time. In counting children for the purposes of this division, any children under six (6) years of age who are related to the provider and who are on the premises of the **Type B** home shall be counted. **Type B Family Day-Care Home** does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. **Type B Family Day-Care Home** and **Type B Home** do not include any child day camp. [NOTE: ORC 5104.054 – *Certified and uncertified homes considered residential use of property for zoning purposes* – Any Type B family day-care home, whether certified or not certified by the County Director of Human Services, shall be considered to be a residential use of property for purposes of municipal, county, and township zoning and shall be a permitted use in all zoning districts in which residential uses are permitted. No municipal, county, or township zoning regulations shall require a conditional use permit or any other special exception certification for any such type B family day-care home.]
- (bb) **DENSITY** means a measurement expressing the minimum number of square feet of lot area per dwelling unit.
- (cc) **DWELLING** means any building or part thereof designated, used, or intended to be used by people for living or sleeping.
- (dd) **DWELLING UNIT** means an enclosed space within a building having a unique entrance and consisting of one (1) or more living and/or sleeping rooms arranged contiguously with cooking and sanitary facilities, which are not accessible from a common or public area, maintained or designed to be occupied by a single-family.
- (ee) **DWELLING, SINGLE-FAMILY** means a detached building arranged, intended, designed, or redesigned as a single dwelling unit.
- (ff) **DWELLING, TWO-FAMILY** means a detached building arranged, intended, designed, or redesigned as two (2) separate and independent dwelling units, each such unit to have separate and independent front and rear entrances.

- (gg) **DWELLING, THREE-FAMILY** means a detached building arranged, intended, designed, or redesigned as three (3) separate and independent dwelling units, each such unit to have separate and independent front and rear entrances.
- (hh) **DWELLING, MULTI-FAMILY** means a building arranged, intended, designed, or redesigned to contain four (4) or more dwelling units.
- (ii) **EMPLOYEE** means the regular working staff, (paid, volunteer or otherwise) at maximum strength and in full-time equivalent numbers necessary to operate, maintain or service any given facility or use under normal terms of service.
- (jj) **FAMILY** means an individual or two (2) or more persons living together as a single housekeeping group in a dwelling unit. A “single housekeeping group” exists where the group of individuals share expenses and labor related to the maintenance of the dwelling unit and are living and eating together as a household. “Family” shall not include an individual occupying a rooming unit nor a group of unrelated individuals occupying a rooming house.
- (kk) **FOOD SERVICE** means the preparation of food on the premises of a restaurant, bar, tavern, or nightclub for service and consumption on said premises. “Food Service” shall not include food prepared or assembled elsewhere and reheated on the premises of the restaurant, bar, tavern, or nightclub.
- (ll) **GARAGE, PRIVATE** means an accessory building or portion of the principal building designed, intended, or used for the housing or storage of motor vehicles and other personal property associated with a residential use, and with no facilities for mechanical service or repair of a commercial or public nature.
- (mm) **GAZEBO** means a small, round, octagonal, or similarly shaped decorative structure, usually roofed but open-sided to provide shelter or a place to view the surrounding area.
- (nn) **GROSS PUBLIC FLOOR AREA** means the total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-computer areas, storage areas visible from such other areas, restrooms (whether or not labeled “public”), areas used for cabarets or similar shows (including stage areas), plus aisles, hallways and entryways serving such areas.
- (oo) **HOME OCCUPATION** means any gainful business, occupation, or profession conducted within a dwelling unit principally by those legally residing therein.
- (pp) **LANDMARK PROPERTY** means a principal structure in any zoning district built in 1945 or earlier.
- (qq) **LOT** means an area of land described in documents properly recorded in the records of the Cuyahoga County Recorder, bearing a unique permanent parcel number.
- (rr) **LOT COVERAGE** means that percent of the lot area occupied by a structure, including any part thereof, which extends beyond the foundation; roof overhangs of twelve (12) inches or less, including any rain gutter, shall be excluded from this calculation.

- (ss) **LOT DEPTH** means the average distance to the rear line of a lot as measured in the general direction of the side lot lines from the public or private right-of-way upon which said lot fronts.
- (tt) **LOT FRONTAGE** means the distance between the side lot lines measured at the right-of-way.
- (uu) **MEDIA** means anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything, which is or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, CD-ROMs, digital video disc, or other magnetic media, and undeveloped pictures.
- (vv) **MEDIA STORE** is defined here as an exclusive term, identifying a category of business that may include adult media but that is not regulated as an adult media store. In that context, media store means a retail store offering media for sale or rent for consumption or enjoyment off the premises; provided that any store in which adult media constitutes more than forty percent (40%) of the stock in trade and/or occupies more than forty percent (40%) of the gross public floor area shall be considered an “adult media store”. Reference Section 1129.15 for media stores in which adult media constitutes more than ten percent (10%) but no more than forty percent (40%) of the stock in trade or occupies more than ten percent (10%) but not more than forty percent (40%) of the gross public floor area. This definition intentionally includes and is intentionally broader than the definition of “book store” and “video store”.
- (ww) **NON-CONFORMING LOT** means a lot that does not meet all the dimensional requirements of the zoning district in which it is located, which exists by virtue of the fact that it existed lawfully on the effective date of this *Code*, and which continues to exist.
- (xx) **NON-CONFORMING STRUCTURE** means any structure or improvement which does not meet the applicable dimensional requirements or other development standards contained in this *Code*, which lawfully exists by virtue of the fact that it existed on the effective date of this *Code*, and which continues to exist.
- (yy) **NON-CONFORMING USE** means any use not permitted in the zoning district in which it is located, which lawfully exists by virtue of the fact that it existed as of the effective date of this *Code* and which has not been discontinued under the provision of this *Code*.
- (zz) **OUTDOOR/SEASONAL DINING FACILITY** means an outdoor dining area or an area wherein twenty-five percent (25%) or more of any exterior wall is movable and is connected or attached to an indoor restaurant, bar, tavern or nightclub.
- (aaa) **PRINCIPAL STRUCTURE** means the structure with the greatest percentage of lot coverage or occupied by the principal use.
- (bbb) **PRINCIPAL USE** means the use to which the greatest percentage of the principal structure or lot not occupied by a structure is devoted.
- (ccc) **ROOMING UNIT** means one (1) or more living and/or sleeping rooms arranged contiguously and being accessible through a single interior entrance. Such rooms have **NO** cooking or sanitary facilities.

- (ddd) **ROOMING HOUSE** means a building housing two (2) or more rooming units, wherein the occupants of said rooming units have access to communal sanitary facilities but do not benefit from the cooking facilities within the structure.
- (eee) **SIMILAR USE** means a use not otherwise described in this *Code* found by the Commission to be substantially similar to a permitted use or a conditionally permitted use, pursuant to Section 1173.03.
- (fff) **SCHOOL** means a publicly or privately owned facility providing full- or part-time instruction and training; “school” shall include elementary, junior high, and high schools, college and trade schools, and studios providing instruction (e.g.: craft, dance, karate).
- (ggg) **STOCK IN TRADE** means the individual items displayed in areas open to the public and offered for sale or rental in an establishment.
- (hhh) **STORY** means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor next above, then the space between any floor and the ceiling next above, not including a cellar.
- (iii) **STREET** means a properly dedicated public way, which affords the principal means of access to abutting properties.
- (jjj) **STRUCTURE** means anything constructed or erected, the use of which requires either location on the ground or attachment to another structure located on the ground, including but not limited to barriers, bleachers, booths, buildings, display stands, fences, platforms, poles, pools, sheds, signs, above and below ground tanks, towers, and walls and shall include the supporting framework or parts thereof and appurtenances thereto; “structure” does not include a decorative light pole extending eight (8) feet or less above grade, a flag pole extending fifteen (15) feet or less above grade, or a sidewalk, driveway, or patio at grade.
- (kkk) **TRELLIS** means a latticework of wood or other material, used primarily to support ornamental vegetation.
- (lll) **VARIANCE** means a deviation from a regulation placed by the *Code* on a permitted, existing non-conforming, or conditional use or structure, granted by the Board or Commission, where applicable, pursuant to Article XIII, Section 2, Paragraph 2 of the SECOND AMENDED CHARTER OF THE CITY OF LAKEWOOD.
- (mmm) **VARIANCE, MINOR AREA** means an area variance(s) of less than ten percent (10%) of the permitted lot coverage, or of the required side yard or rear yard, according to the criteria set forth in Subsection 1173.04(b). The Commissioner may grant minor area variance(s).
- (nnn) **VARIANCE, AREA** means an area variance that is reviewed by the Board who shall determine whether an applicant has demonstrated that the literal enforcement of the *Code* will, in the case of an area variance, result in practical difficulty according to the criteria set forth in Subsection 1173.04(c).
- (ooo) **VARIANCE, USE** means a use variance that is reviewed by the Commission who shall approve or disapprove an application to allow a use not permitted under this *Code* in the zoning district in which the property is located, the Commission must find that the applicant has demonstrated that the literal enforcement of the *Code* will result in unnecessary hardship according to the criteria set forth in Subsection 1173.04(d).

- (ppp) **WIND ENERGY FACILITY** means an electric generating facility, whose main purpose is to supply electricity, consisting of one (1) or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.
- (qqq) **WIRELESS TELECOMMUNICATION ANTENNA** or **ANTENNA ARRAY** means the physical device or an array of elements constituting a physical device through which electromagnetic, wireless telecommunication signals authorized by the Federal Communications Commission are transmitted or received.
- (rrr) **YARD, FRONT** means the unoccupied area between the public or private right-of-way and the building line.
- (sss) **YARD, REAR** means the unoccupied area extending the width of the lot between the rear line of the principal structure or any part thereof and the rear lot line.
- (ttt) **YARD, SIDE** means the unoccupied area between the building line and the rear yard or rear lot line where no rear yard requirement is designated, which runs parallel to the side lot line.
(Ord. 91-95. Passed 10-7-96; Ord. 24-98. Passed 5-18-98; Ord. 25-01. Passed 7-2-01; Ord. 124-05. Passed 2-6-06; Ord. 70-07. Passed 3-2-09; Ord. 43-08. Passed 4-21-08; Ord. 73-08. Passed 9-2-08.)

CHAPTER 1105
Districts Established, Maps

<p>1105.01 Establishment of districts.</p> <p>1105.02 Zoning Map.</p>	<p>1105.03 Building Line Map.</p> <p>1105.04 Application.</p>
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CROSS REFERENCE
Conditional use permits - see P.& Z. 1173.02

1105.01 ESTABLISHMENT OF DISTRICTS.

(a) The *City* is divided into the following districts, which may be referred to by the alphanumeric designation assigned herein.

Residential, Single-Family, Low Density	R1L
Residential, Single-Family, Medium Density	R1M
Residential, Single-Family, High Density	R1H
Residential, Lagoon	L
Residential, Single- and Two-Family	R2
Residential, Multiple-Family, Low Density	ML
Residential, Multiple-Family, High Density	MH
Commercial, Office	C1
Commercial, Retail	C2
Commercial, General Business	C3
Commercial, Public School	C4
Historic Preservation Districts/Historic Properties	HPD/HP
Mixed Use Overlay District	MUOD
Planned Development	PD
Industrial	I

(b) Unless otherwise stated, all uses not specified as permitted in a district are prohibited.

(c) A use designated by this *Code* as a conditional use in the zoning district in which it is located following adoption of this *Code* shall be deemed to have received a Conditional Use Permit, as required by Section 1173.02.
(Ord. 105-07. Passed 5-19-08.)

1105.02 ZONING MAP.

(a) The map attached hereto showing the location and boundaries of the Districts set forth in Section 1105.01 shall be known as the *Zoning Map*.
(Ord. 61-04. Passed 7-6-04.)

(b) A district boundary shown within a public right-of-way shall be construed to be the center thereof and shall remain a boundary where the street is vacated, unless the boundary is changed by an amending ordinance. Where a district boundary is not within a street or way and its location is not precisely indicated by dimensioned distances from known lines and where the designation on the *Zoning Map* indicates such boundary to coincide with a lot line, the distance boundary shall be said lot line.
(Ord. 91-95. Passed 10-7-96.)

1105.03 BUILDING LINE MAP.

The map attached hereto showing the building lines applicable to individual streets shall be known as the *Building Line Map*.
(Ord. 91-95. Passed 10-7-96.)

1105.04 APPLICATION.

No lot shall be used and no structure shall be used, erected, moved, or altered unless in conformity with the *Code* and the regulations and uses permitted in the district in which the lot is or the structure is or is intended to be located.
(Ord. 91-95. Passed 10-7-96.)

TITLE THREE - District Regulation

- Chap. 1121. Single-Family Residential Districts.
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CHAPTER 1121 Single-Family Residential Districts

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CROSS REFERENCES

- Additional district regulations - see P.& Z. Ch. 1133
- Demolition or Removal of residential structures - see P.& Z. 1133.09
- Historic Preservation Districts and Historic Properties - see P.& Z. Ch. 1134
- Mixed Use Overlay District - see P.& Z. Ch. 1135
- Off-street parking - see P.& Z. Ch. 1143
- Home occupations - see P.& Z. Ch. 1145
- Signs in Residential Districts - see P.& Z. Ch. 1151
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- Planned Development - see P.& Z. Ch. 1156
- Antennas - see P.& Z. Ch. 1157
- Wireless telecommunication facilities - see P.& Z. Ch. 1159
- Conditional uses - see P.& Z. Ch. 1161
- Conditional use permits in Residential Districts - see P.& Z. 1173.02
- Swimming pools - see SAN. Ch. 1721

1121.01 GENERAL PROVISIONS.

The following regulations shall apply to all Single-Family Low Density Districts (R1L), Single-Family Medium Density Districts (R1M), and Single-Family High Density Districts (R1H). (Ord. 91-95. Passed 10-7-96.)

1121.02 PERMITTED PRINCIPAL USES.

In the R1L, R1M, and R1H Districts, no building or premises shall be used or established which is designed, arranged, or intended for other than a single-family dwelling, adult family home, a cluster house development in compliance with the provisions of Section 1121.12, or a Planned Development in compliance with the provisions of Chapter 1156. (Ord. 61-04. Passed 7-6-04.)

1121.03 PERMITTED ACCESSORY USES.

The following accessory uses shall be permitted when located on the same lot with a permitted principal use:

- (a) A garage not to exceed 480 square feet in area or the requirement of Section 1121.09(c), whichever is greater.
- (b) Signs as regulated by Chapter 1151.
- (c) A Type A home occupation, provided such use is clearly incidental to the principal use, pursuant to Chapter 1145.
- (d) An unroofed patio deck not to exceed 300 square feet in area and forty-two (42) inches above grade, the requirements of Section 1121.09 notwithstanding. The rear yard depth requirement shall be not less than thirty (30) feet measured from the back of the deck regardless of the requirements of Section 1121.07.
- (e) A family swimming pool, which complies with the standards of Section 1121.10(c) and Chapter 1721 of the Sanitary Code.
- (f) A storage shed not to exceed eighty (80) square feet in area or which complies with the requirement of Section 1121.09(c), whichever is greater, and ten (10) feet in height above grade Section 1121.05(b) notwithstanding.
- (g) Fences and living fences as regulated by Chapter 1153.
(Ord. 91-95. Passed 10-7-96.)
- (h) An arbor and/or trellis, provided that where located in a front yard the total length of such shall not exceed six (6) feet in width, four (4) feet in depth, and eight (8) feet in height.
(Ord. 24-98. Passed 5-18-98.)
- (I) Gazebos and other decorative structures not to exceed forty (40) square feet in area, Section 1121.10(a) notwithstanding.
(Ord. 91-95. Passed 10-7-96.)
- (j) Antenna(s) and satellite dish antenna(s) provided they comply with the standards of Chapter 1157.
- (k) Wireless telecommunication antenna(s) provided they comply with the standards of Chapter 1159.
(Ord. 24-98. Passed 5-18-98.)

1121.04 CONDITIONALLY PERMITTED USES.

If approved by the Commission pursuant to Section 1173.02, the following may be permitted as conditional uses provided that the standards and conditions hereinafter specified are met:

- (a) Roomer, pursuant to Section 1161.03(q).
- (b) Accessory Parking, pursuant to Section 1161.03(a).

- (c) Re-use of an existing non-conforming structure, pursuant to Section 1161.03(o).
- (d) A Type B home occupation, pursuant to Chapter 1145 and Section 1161.03(f).
- (e) Wireless telecommunication antenna(s) pursuant to Section 1159.04(c)(2).
- (f) Mixed Use Overlay District pursuant to Chapter 1135.
(Ord. 43-08. Passed 4-21-08.)
- (g) Wind generation facility pursuant to Chapter 1160.
(Ord. 73-08. Passed 9-2-08.)

1121.05 HEIGHT REGULATIONS.

(a) No principal structure shall exceed thirty-five (35) feet in height above grade as determined by the Commissioner.

(b) No accessory structure, except an antenna, shall exceed fifteen (15) feet above grade as determined by the Commissioner.
(Ord. 91-95. Passed 10-7-96.)

1121.06 LOT AREA AND FRONTAGE REGULATIONS.

Principal buildings and uses permitted in the R1L, R1M, and R1H Single-Family Districts shall be located only on a lot that complies with the lot area and frontage regulations set forth in Schedule 1121.06, unless otherwise specifically provided for elsewhere in this *Code*.

SCHEDULE 1121.06: LOT AREA AND FRONTAGE REGULATIONS			
	R1L SINGLE- FAMILY	R1M SINGLE- FAMILY	R1H SINGLE- FAMILY
Minimum Lot Area (Square Feet)	14,000	9,000	5,000
Minimum Lot Frontage (Feet)	70	60	40

(Ord. 91-95. Passed 10-7-96.)

1121.07 MINIMUM YARD REQUIREMENTS FOR PRINCIPAL BUILDINGS.

In the R1L, R1M, and R1H Single-Family Districts each zoning lot shall maintain the minimum front, side, and rear yard specified in Schedule 1121.07. Exterior steps leading to a main entrance of a principal building shall be excluded from the front yard requirement. For existing principal buildings with side yards of less than those specified in Schedule 1121.07, an addition may be constructed provided that the new addition does not encroach into the existing side yard any further than the foundation sidewalls of the existing building.
(Ord. 24-98. Passed 5-18-98.)

SCHEDULE 1121.07: MINIMUM YARD REQUIREMENTS			
	R1L SINGLE- FAMILY	R1M SINGLE- FAMILY	RIH SINGLE- FAMILY
Front Yard Depth (feet)	As established on the <i>Building Line Map</i> or the average of the existing front yard depths on the abutting properties as measured from the front foundation wall.		
Rear Yard Depth (feet)	40	40	40
Side Yard Depth (feet)	10	10	5
Minimum Sum of Both Side Yards (feet)	25	20	15

(Ord. 91-95. Passed 10-7-96.)

1121.08 OFF-STREET PARKING.

Off-street parking shall be provided, pursuant to Chapter 1143.

(Ord. 91-95. Passed 10-7-96.)

1121.09 MAXIMUM LOT AREA COVERAGE.

(a) The principal structure including decks, patios, etc., shall not cover more than twenty-five percent (25%) of the lot area.

(b) Arbors, trellises, exterior steps, fences, and living fences shall be excluded from the lot coverage requirement.

(c) An accessory structure or structures shall not cover more than twenty-five percent (25%) of the area of the rear yard except as provided in Section 1121.03.

(Ord. 91-95. Passed 10-7-96.)

1121.10 ADDITIONAL ACCESSORY STRUCTURE REGULATIONS.

(a) Accessory structures constructed of wood, excluding family swimming pools, shall:

- (1) In an R1L or R1M Zoning District be located not less than three (3) feet from any lot line;
- (2) In a R1H Zoning District be located not less than eighteen (18) inches from any lot line.

(b) Accessory structures having masonry walls without openings or roof projections on a lot-line side of the structure shall be not less than six (6) inches from any such lot-line.

(c) No family swimming pool shall be located closer than ten (10) feet to the side or rear property line of the lot upon which it is situated. The Commissioner may grant a variance to the ten (10) foot side and/or rear line requirement for portable family swimming pools, provided that written consent from each abutting property owner is filed with the application for variance. (Ord. 91-95. Passed 10-7-96.)

1121.11 SUPPLEMENTAL REGULATIONS FOR ADULT FAMILY HOMES.

An adult family home shall not be located within 1,000 feet, including a public or private right-of-way, of an existing adult family home. (Ord. 91-95. Passed 10-7-96.)

1121.12 CLUSTER HOMES.

(a) Definition:

CLUSTER HOUSE DEVELOPMENT means a group of three (3) or more detached single-family dwellings arranged around a central common area upon a parcel of land under common ownership, planned and developed as a whole with a binding, enforceable agreement between the building owners in the development for the future maintenance and repair of all land, improvements, and services as will be for the common use of all building owners in the development.

(b) Regulations:

- (1) Only detached, single-family dwellings shall be erected.
- (2) Minimum lot area per dwelling shall be as set forth in Schedule 1121.06; where a development lies in more than one (1) zoning district, the more restrictive minimum lot area requirement applies.
- (3) Proper provisions shall be made for the ownership of all the land in the development to be in the name of the developer until such time as a sufficient number of dwellings are sold to permit the formation of a property owners association at which time the title to all of said land shall be transferred to such association. Membership in the property owners association shall be limited solely to the owners of the dwellings in the development.
- (4) Covenants shall be included in the deed for each dwelling sufficient to ensure that the use of all the land will be consistent with the provisions of this Ordinance governing Cluster House Developments as well as to guarantee that all the land in the development, together with all improvements, facilities and services for the common use of all building owners in the development, will be kept in good maintenance and repair. Sewer and water lines beyond the curb shall be installed by the developer and maintained by the association, with separate water meters installed in each home.
- (5) No dwelling or other structure shall be erected within thirty (30) feet of a side or rear boundary line of the parcel.
- (6) No dwelling or other structure shall be erected within twenty (20) feet of another dwelling or structure.
- (7) The building line for that portion of the development, which fronts on a public street, shall be not less than fifty (50) feet.

- (8) A private drive in lieu of a public street shall be permitted provided that:
- A. The development complies with the minimum lot area specified in paragraph (2) of this subsection (b);
 - B. The drive shall terminate in a court or circle having a minimum width or diameter of eighty (80) feet;
 - C. Such drive shall be constructed in accordance with specifications prescribed and approved by the Engineer;
 - D. Such drive shall be completed prior to the first occupancy of any home in the development; and
 - E. The property owners association for and on behalf of its members shall waive liability and hold the City harmless for any damage to the private drive which may, at any future time, be caused by City vehicles or other equipment using said drive to provide municipal services at the request of the property owners or their association.
- (Ord. 91-95. Passed 10-7-96.)

CHAPTER 1123
Single- and Two-Family Residential Districts

1123.01	General provisions.	1123.08	Off-street parking.
1123.02	Permitted principal uses.	1123.09	Maximum lot area coverage.
1123.03	Permitted accessory uses.	1123.10	Additional accessory structure regulations.
1123.04	Conditionally permitted uses.	1123.11	Supplemental regulations for adult family homes.
1123.05	Height regulations.	1123.12	Cluster homes.
1123.06	Lot area and frontage regulations.		
1123.07	Minimum yard requirements for principal buildings.		

CROSS REFERENCES

Additional district regulations - see P.& Z. Ch. 1133
 Demolition or removal of residential structures - see P.& Z. 1133.09
 Historic Preservation Districts and Historic Properties - see P.& Z. Ch. 1134
 Mixed Use Overlay District - see P.& Z. Ch. 1135
 Off-street parking - see P.& Z. Ch. 1143
 Home occupations - see P.& Z. Ch. 1145
 Signs in Residential Districts - see P.& Z. Ch. 1151
 Fences - see P.& Z. Ch. 1153
 Planned Development - see P.& Z. Ch. 1156
 Antennas - see P.& Z. Ch. 1157
 Wireless telecommunication facilities - see P.& Z. Ch. 1159
 Conditional uses - see P.& Z. Ch. 1161
 Conditional use permits in Residential Districts - see P.& Z. 1173.02
 Swimming pools - see SAN. Ch. 1721

1123.01 GENERAL PROVISIONS.

The following regulations shall apply to all structures in the Single- and Two-Family Residential Districts (R2).
 (Ord. 91-95. Passed 10-7-96.)

1123.02 PERMITTED PRINCIPAL USES.

In the R2 District no building or premises shall be used or established which is designed, arranged, or intended for other than a single-family dwelling, two-family dwelling, adult family home, a cluster house development in compliance with the provisions of Section 1123.12 or a Planned Development in compliance with the provisions of Chapter 1156.
 (Ord. 61-04. Passed 7-6-04.)

1123.03 PERMITTED ACCESSORY USES.

The following accessory uses shall be permitted when located on the same lot with a permitted principal use.

- (a) A garage not to exceed 480 square feet in area or the requirement of Section 1123.09(c), whichever is greater.
- (b) Signs as regulated by Chapter 1151.
- (c) A Type A home occupation, provided such use is clearly incidental to the principal use, pursuant to Chapter 1145.
- (d) An unroofed patio deck not to exceed 300 square feet in area and height not to exceed the first floor elevation above grade, Section 1123.05(b) and Section 1123.09 notwithstanding. The rear yard depth requirement shall not be less than thirty (30) feet measured from the back of the deck regardless of the requirements of Section 1123.07.
- (e) A family swimming pool, which complies with the standards of Section 1123.10(c) and Chapter 1721 of the Sanitary Code.
- (f) A storage shed not to exceed eighty (80) square feet in area or which complies with the requirement of Section 1123.09(c), whichever is greater, and ten (10) feet in height above grade, Section 1123.05(b) notwithstanding.
- (g) Fences and living fences as regulated by Chapter 1153.
(Ord. 91-95. Passed 10-7-96.)
- (h) An arbor and/or trellis, provided that where located in the front yard the total length of such shall not exceed six (6) feet in width, four (4) feet in depth and eight (8) feet in height.
(Ord. 24-98. Passed 5-18-98.)
- (i) Gazebos and other decorative structures not to exceed forty (40) square feet in area, Section 1123.09 notwithstanding.
(Ord. 91-95. Passed 10-7-96.)
- (j) Antenna(s) and satellite dish antenna(s) provided they comply with the standards of Chapter 1157.
- (k) Wireless telecommunication antenna(s) provided they comply with the standards of Chapter 1159.
(Ord. 24-98. Passed 5-18-98.)

1123.04 CONDITIONALLY PERMITTED USES.

If approved by the Commission pursuant to Section 1173.02, the following may be permitted as conditional uses provided that the standards and conditions hereinafter specified are met:

- (a) Roomer, pursuant to Section 1161.03(q).
- (b) Accessory Parking, pursuant to Section 1161.03(a).
- (c) Re-use of an existing non-conforming structure, pursuant to Section 1161.03(o).
- (d) A Type B home occupation, pursuant to Chapter 1145 and Section 1161.03(f).
- (e) Wireless telecommunication antenna(s), pursuant to Section 1159.04(c)(2).
- (f) Mixed Use Overlay District, pursuant to Chapter 1135.
(Ord. 43-08. Passed 4-21-08.)
- (g) Wind generation facility, pursuant to Chapter 1160.
(Ord. 73-08. Passed 9-2-08.)

1123.05 HEIGHT REGULATIONS.

(a) The principal structure shall not exceed thirty-five (35) feet in height above grade as determined by the Commissioner.

(b) An accessory structure, except an antenna, shall not exceed fifteen (15) feet in height above grade as determined by the Commissioner.
(Ord. 91-95. Passed 10-7-96.)

1123.06 LOT AREA AND FRONTAGE REGULATIONS.

No lot shall be less than 5,000 square feet in area and less than forty (40) feet in width at the building line.
(Ord. 91-95. Passed 10-7-96.)

1123.07 MINIMUM YARD REQUIREMENTS FOR PRINCIPAL BUILDINGS.

In the R2 District each zoning lot shall maintain the minimum front, side, and rear yard specified in Schedule 1123.07. Exterior steps leading to a main entrance of a principal building shall be excluded from the front yard requirement. For existing principal buildings with side yards of less than those specified in Schedule 1123.07, an addition may be constructed provided that the new addition does not encroach into the existing side yard any further than the foundation sidewalls of the existing building.
(Ord. 24-98. Passed 5-18-98.)

SCHEDULE 1123.07: MINIMUM YARD REQUIREMENTS	
Front Yard Depth (feet)	As established on the <i>Building Line Map</i> or the average of the existing front yard depths on the abutting properties as measured from the front foundation wall.
Rear Yard Depth (feet)	40
Side Yard Depth (feet)	5
Minimum Sum of Both Side Yards (feet)	15

(Ord. 91-95. Passed 10-7-96.)

1123.08 OFF-STREET PARKING.

Off-street parking shall be provided, pursuant to Chapter 1143.
(Ord. 91-95. Passed 10-7-96.)

1123.09 MAXIMUM LOT AREA COVERAGE.

(a) The principal building, including attached decks, shall not cover more than twenty-five percent (25%) of the lot area.

(b) Arbors, trellises, exterior steps, fences, and living fences shall be excluded from the lot coverage limitation.

(c) An accessory structure or structures shall not cover more than twenty-five percent (25%) of the area of the rear yard except as provided in Section 1123.03.
(Ord. 91-95. Passed 10-7-96.)

1123.10 ADDITIONAL ACCESSORY STRUCTURE REGULATIONS.

(a) Accessory structures constructed of wood, excluding family swimming pools, may not be located within eighteen (18) inches of a side and rear property line.

(b) Accessory structures having masonry walls without openings and roof projections on the property line side of the structure may be set back from the rear property line and one (1) side line not less than six (6) inches.

(c) No family swimming pool shall be located closer than five (5) feet to the side or rear property line of the lot upon which it is situated. The Commissioner may grant a variance to the five (5) foot side and/or rear line requirement for portable family swimming pools, provided that written consent from each abutting property owner is filed with the application for variance.
(Ord. 91-95. Passed 10-7-96.)

1123.11 SUPPLEMENTAL REGULATIONS FOR ADULT FAMILY HOMES.

An adult family home shall not be located within 1,000 feet, including a public or private right-of-way, of an existing adult family home.
(Ord. 91-95. Passed 10-7-96.)

1123.12 CLUSTER HOMES.

(a) Definition:

CLUSTER HOUSE DEVELOPMENT means a group of three (3) or more detached single-family dwellings arranged around a central common area upon a parcel of land under common ownership, planned and developed as a whole with a binding, enforceable agreement between the building owners in the development for the future maintenance and repair of all land, improvements, and services as will be for the common use of all building owners in the development.

(b) Regulations:

(1) Only detached, single-family dwellings shall be erected.

(2) There shall be no more than one (1) dwelling per 5,000 square feet of land area.

(3) Proper provisions shall be made for the ownership of all the land in the development to be in the name of the developer until such time as a sufficient number of dwellings are sold to permit the formation of a property owners association at which time the title to all of said land shall be transferred to such association. Membership in the property owners association shall be limited solely to the owners of the dwellings in the development.

- (4) Covenants shall be included in the deed for each dwelling sufficient to ensure that the use of all the land will be consistent with the provisions of this Ordinance governing Cluster House Developments as well as to guarantee that all the land in the development, together with all improvements, facilities and services for the common use of all building owners in the development, will be kept in good maintenance and repair. Sewer and water lines beyond the curb shall be installed by the developer and maintained by the association, with separate water meters installed in each home.
- (5) No dwelling or other structure shall be erected within thirty (30) feet of a side or rear boundary line of the parcel.
- (6) No dwelling or other structure shall be erected within twenty (20) feet of another dwelling or structure.
- (7) The building line for that portion of the development which fronts on a public street shall be as shown on the ***Building Line Map***.
- (8) A private drive in lieu of a public street shall be permitted provided that:
 - A. The development complies with the minimum lot area specified in paragraph (2) of this subsection (b);
 - B. The drive shall terminate in a court or circle having a minimum width or diameter of eighty (80) feet;
 - C. Such drive shall be constructed in accordance with specifications prescribed and approved by the Engineer;
 - D. Such drive shall be completed prior to the first occupancy of any home in the development; and
 - E. The property owners association for and on behalf of its members shall waive liability and hold the ***City*** harmless for any damage to the private drive which may, at any future time, be caused by ***City*** vehicles or other equipment using said drive to provide municipal services at the request of the property owners or their association.
(Ord. 91-95. Passed 10-7-96.)

**CHAPTER 1125
Lagoon District**

<p>1125.01 General provisions.</p> <p>1125.02 Permitted principal uses.</p> <p>1125.03 Permitted accessory uses.</p> <p>1125.04 Height regulations.</p> <p>1125.05 Lot area and frontage regulations.</p> <p>1125.06 Side and rear yard requirements for principal buildings.</p>	<p>1125.07 Front yard regulations for principal buildings.</p> <p>1125.08 Off-street parking.</p> <p>1125.09 Maximum lot area coverage.</p> <p>1125.10 Additional accessory structure regulations.</p>
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CROSS REFERENCES

Additional district regulations - see P.& Z. Ch. 1133
 Demolition or removal of residential structures - see P.& Z. 1133.09
 Historic Preservation Districts and Historic Properties - see P.& Z. Ch. 1134
 Off-street parking - see P.& Z. Ch. 1143
 Home occupations - see P.& Z. Ch. 1145
 Signs in residential districts - see P.& Z. Ch. 1151
 Fences - see P.& Z. Ch. 1153
 Antennas - see P.& Z. Ch. 1157
 Wireless telecommunication facilities - see P.& Z. Ch. 1159
 Flood damage prevention - see BLDG. Ch. 1308
 Swimming pools - see SAN. Ch. 1721

1125.01 GENERAL PROVISIONS.

The following regulations shall apply to all lots in the Lagoon (L) District.
 (Ord. 91-95. Passed 10-7-96.)

1125.02 PERMITTED PRINCIPAL USES.

In the Lagoon District no building or premises shall be used or established which is designed, arranged, or intended for other than a single-family dwelling and/or boat storage facility. For the purposes of this section, "boat storage facility" shall mean a dock, platform or any other means of boat dockage, whether or not enclosed.

The following uses are prohibited: commercially operated boat storage, rental, sales or service; boat stacking systems; food sales; and the dispensing, storage, or sales of gasoline or other fuels.

(Ord. 91-95. Passed 10-7-96.)

1125.03 PERMITTED ACCESSORY USES.

The following accessory uses shall be permitted when located on the same lot or parcel with a permitted principal use:

- (a) A garage not to exceed 400 square feet in area or the requirements of Section 1125.09, whichever is greater.
- (b) Signs as regulated by Chapter 1151.
- (c) A Type A home occupation provided such use is clearly incidental to the principal use and complies with the requirements of Chapter 1145.
- (d) An unroofed patio deck not to exceed 240 square feet in area and forty-two (42) inches above grade, Sections 1125.04(b) and 1125.10(b) notwithstanding.
- (e) A family swimming pool, which complies with the standards of Section 1125.10(b) and Chapter 1721 of the Sanitary Code.
- (f) A storage shed not to exceed forty (40) square feet in area and ten (10) feet in height above grade or the requirements of Section 1125.04(b) and Section 1125.09.
- (g) Fences and decorative fences as regulated by Chapter 1153.
- (h) An arbor and/or trellis, provided that where located in a front yard the total length of such shall not exceed six (6) feet in width, four (4) feet in depth and eight (8) feet in height.
- (i) Gazebos and other decorative structures not to exceed forty (40) square feet in area, Section 1125.10(b) notwithstanding.
- (j) Antenna(s) and satellite dish antenna(s) provided they comply with the standards of Chapter 1157.
- (k) Wireless telecommunication antenna(s) provided they comply with the standards of Chapter 1159.
- (l) The parking of boat trailers in the yard area shall not be deemed an accessory use and is prohibited.
- (m) Wind generation facility pursuant to Chapter 1160.
(Ord. 73-08. Passed 9-2-08.)

1125.04 HEIGHT REGULATIONS.

(a) In the L District no structure shall exceed thirty-five (35) feet in height above the curb level of the street on which it fronts. If there is a different elevation on each side of the lot, a mean elevation shall be used in measuring maximum height of the structure. All structures shall also comply with the Flood Plain Regulations in accordance with Chapter 1308 of the Building Code (Flood Damage Prevention) or as it may be amended from time to time. The permitted height of a structure shall be measured from the curb level regardless of the floor elevation of the structure pursuant to the provisions of the Flood Damage Prevention Code.

(b) No accessory structure, except an antenna, shall exceed fifteen (15) feet above grade as determined by the Commissioner.
(Ord. 91-95. Passed 10-7-96.)

1125.05 LOT AREA AND FRONTAGE REGULATIONS.

No lot shall be less than 2,400 square feet in area and less than twenty-five (25) feet in width at the building line.
(Ord. 91-95. Passed 10-7-96.)

1125.06 SIDE AND REAR YARD REGULATIONS FOR PRINCIPAL BUILDINGS.

There are no minimum side and rear yard requirements for the principal building.
(Ord. 91-95. Passed 10-7-96.)

1125.07 FRONT YARD REGULATIONS FOR PRINCIPAL BUILDINGS.

Front yard shall be as established by the *Building Line Map*. Exterior steps leading to a main entrance of a principal building shall be excluded from the front yard requirement.
(Ord. 91-95. Passed 10-7-96.)

1125.08 OFF-STREET PARKING.

Off-street parking shall be provided, pursuant to Chapter 1143. The front yard may be used for off-street parking.
(Ord. 91-95. Passed 10-7-96.)

1125.09 MAXIMUM LOT AREA COVERAGE.

(a) Principal buildings on Lagoon waterfront lots or Rocky River waterfront lots shall not cover more than ninety percent (90%) of the lot area. Principal buildings on non-waterfront lots of 2,500 square feet or less shall not cover more than eighty percent (80%) of the lot area, on lots exceeding 2,500 square feet but less than 3,300 square feet shall not cover more than 2,000 square feet, and on lots of 3,300 square feet or more shall not cover more than sixty percent (60%) of the lot area.

(b) Arbors, trellises, and exterior steps shall be excluded from the lot coverage requirement.

(c) An accessory structure or structures shall not cover more than twenty-five percent (25%) of the rear yard area except as provided in Section 1125.03(a).
(Ord. 91-95. Passed 10-7-96.)

1125.10 ADDITIONAL ACCESSORY STRUCTURE REGULATIONS.

(a) Accessory structures shall be constructed of non-combustible material equivalent to a two-hour fire rating for wall and ceiling construction and shall not be constructed within three (3) feet of a side or rear property line.

(b) No family swimming pool shall be located closer than ten (10) feet to the side or rear property line of the lot upon which it is situated. The Commissioner may grant a variance to the ten (10) foot side and/or rear line requirement for portable family swimming pools, provided that written consent from each abutting property owner is filed with the application for variance.
(Ord. 91-95. Passed 10-7-96.)

CHAPTER 1127
Multiple-Family Residential Districts

<p>1127.01 General provisions.</p> <p>1127.02 Permitted principal uses.</p> <p>1127.03 Permitted accessory uses.</p> <p>1127.04 Conditionally permitted uses.</p> <p>1127.05 Height regulations.</p> <p>1127.06 Lot area and frontage regulations.</p>	<p>1127.07 Minimum yard requirements for principal buildings.</p> <p>1127.08 Off-street parking.</p> <p>1127.09 Maximum lot area coverage.</p> <p>1127.10 Additional accessory structure regulations.</p> <p>1127.11 Supplemental regulations for adult family homes and adult group homes.</p>
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CROSS REFERENCES

Cluster homes - see P. & Z. 1121.12
 Additional district regulations - see P.& Z. Ch. 1133
 Demolition or removal of residential structures - see P.& Z. 1133.09
 Historic Preservation Districts and Historic Properties - see P.& Z. Ch. 1134
 Mixed Use Overlay District - see P.& Z. Ch. 1135
 Off-street parking - see P.& Z. Ch. 1143
 Home occupations - see P.& Z. Ch. 1145
 Signs in Residential Districts - see P.& Z. Ch. 1151
 Fences - see P.& Z. Ch. 1153
 Planned Development - see P.& Z. Ch. 1156
 Antennas - see P.& Z. Ch. 1157
 Wireless Telecommunication facilities - see P.& Z. Ch. 1159
 Conditional use permits in Residential Districts - see P.& Z. 1173.02
 Swimming pools - see SAN. Ch. 1721

1127.01 GENERAL PROVISIONS.

The following regulations shall apply to all Multiple-Family, Low Density Districts (ML), and Multiple-Family, High Density Districts (MH).
 (Ord. 91-95. Passed 10-7-96.)

1127.02 PERMITTED PRINCIPAL USES.

(a) In the ML District no building or premises shall be used or established which is designed, arranged, or intended for other than a low density multiple-family residential building, a single- or two-family dwelling, adult family home, adult group home, or cluster house development.

(b) In the MH District no building or premises shall be used or established which is designed, arranged, or intended for other than a medium density multiple-family residential building, a low density multiple-family residential building, a single- or two-family dwelling, adult family home, adult group home, or cluster house development.
(Ord. 91-95. Passed 10-7-96.)

(c) A single- or two-family dwelling in the ML and MH Districts shall meet all the requirements of the R2 District. Cluster house developments in the ML and MH Districts shall meet all the requirements of Section 1121.12.

(d) A Planned Development may be permitted in the MH District provided that the regulations in Chapter 1156 and all other provisions of the Ordinances and this *Code* have been met.
(Ord. 61-04. Passed 7-6-04.)

1127.03 PERMITTED ACCESSORY USES.

The following accessory uses shall be permitted when located on the same lot with a permitted principal use:

- (a) Private garages to house passenger motor vehicles of the occupants of the principal building.
- (b) Signs as regulated by Chapter 1151.
- (c) A Type A home occupation provided such use is clearly incidental to the principal use and complies with the requirements of Chapter 1145. (Professional, medical, or general business offices permitted pursuant to Section 1127.04(c) shall not be considered an accessory use in the ML and MH Districts.)
- (d) An unroofed patio deck not to exceed 300 square feet in area and forty-two (42) inches above grade; the rear yard depth requirement shall be not less than thirty (30) feet measured from the back of the deck, the requirement of Schedules 1127.03 and 1127.07 notwithstanding.
- (e) A swimming pool, which complies with the standards of Section 1127.10(c) and Chapter 1721 of the Sanitary Code.
- (f) A storage shed not to exceed 120 square feet in area and ten (10) feet in height above grade or the requirements of subsection 1127.09(c), whichever is greater.
- (g) Fences and living fences as regulated by Chapter 1153.
(Ord. 91-95. Passed 10-7-96.)
- (h) An arbor and/or trellis, provided that where located in a front yard the total length of such shall not exceed six (6) feet in width, four (4) feet in depth, and eight (8) feet in height.
(Ord. 24-98. Passed 5-18-98.)
- (i) Gazebos and other decorative structures not to exceed 120 square feet in area, Section 1127.09(c) notwithstanding.
(Ord. 91-95. Passed 10-7-96.)
- (j) Antenna(s) and satellite dish antenna(s) provided they comply with the standards of Chapter 1157.
- (k) Wireless telecommunication antenna(s) provided they comply with the standards of Chapter 1159.
(Ord. 24-98. Passed 5-18-98.)

SCHEDULE 1127.03: ACCESSORY USE REGULATIONS		
District	ML Multiple-Family	MH Multiple-Family
Garages		
Side and Rear Yard Depth (Feet)	3	3
Patio Decks		
Area (Square Feet)	300	300
Height Limit (Inches)	42	42
Side and Rear Yard Depth (Feet)	20	20
Storage Sheds		
Area (Square Feet)	120	120
Height Limit (Feet)	10	10
Side and Rear Yard Depth (Feet)	3	3
Arbor and/or Trellis		
Length when Located in Front Yard	10% of Foundation Width	10% of Foundation Width
Decorative Structures		
Area (Square Feet)	120	120
Height (Feet)	10	10
Side and Rear Yard Depth (Feet)	10	10

(Ord. 91-95. Passed 10-7-96.)

1127.04 CONDITIONALLY PERMITTED USES.

If approved by the Commission pursuant to Section 1173.02, the following may be permitted as conditional uses provided that the standards and conditions hereinafter specified are met:

- (a) Convenience food shops or delicatessens, and barber and beauty shops, pursuant to Section 1161.03(d).
- (b) Places of Worship, pursuant to Section 1161.03(m).
- (c) Professional, medical, and general business offices, pursuant to Section 1161.03(n).
- (d) Type A Child Day-Care, pursuant to Section 1161.03(e).
- (e) Parking facilities, including surface parking lots and parking garages of up to three (3) stories in height, pursuant to Section 1161.03(l), provided that any structure complies with all other provisions of this Chapter and the Ordinances.
- (f) Wireless telecommunication antenna(s), pursuant to Section 1159.04(c)(2).
- (g) Mixed Use Overlay District, pursuant to Chapter 1135.
- (h) Bed and Breakfast Establishment, pursuant to Section 1161.03(c).
- (i) Wind generation facility, pursuant to Chapter 1160.

(Ord. 73-08. Passed 9-2-08.)

1127.05 HEIGHT REGULATIONS.

The height of a multiple-family residential structure shall be controlled by its side yards. (Ord. 91-95. Passed 10-7-96.)

1127.06 LOT AREA AND FRONTAGE REGULATIONS.

(a) Principal buildings and uses permitted in the ML and MH Multiple-Family Districts shall be located only on a lot that complies with the lot area and frontage regulations set forth in Schedule 1127.06, unless otherwise specifically provided for elsewhere in this *Code*.

(b) The lot area in Schedule 1127.06 may be reduced by up to ten percent (10%) if all required parking spaces are enclosed or if at least seventy-five percent (75%) of all required spaces are located underground.

SCHEDULE 1127.06: LOT AREA AND FRONTAGE REGULATIONS		
District	ML	MH
Minimum Lot Area (Square Feet)	15,000	10,000
Minimum Area per Dwelling Unit (Square Feet)	800	-----
Minimum Area per Dwelling Unit		
Buildings of One (1) to Four (4) Stories (Square Feet)	-----	800
Buildings of Five (5) or more Stories (Square Feet)	-----	600
Minimum Lot Frontage (Feet)	100	60

(Ord. 91-95. Passed 10-7-96.)

1127.07 MINIMUM YARD REQUIREMENTS FOR PRINCIPAL BUILDINGS.

In the ML and MH Multiple-Family Residential Districts each lot shall maintain the minimum front, side, and rear yard specified in Schedule 1127.07. Exterior steps leading to a main entrance of a principal building shall be excluded from the front yard requirement. For existing principal buildings with side yards of less than those specified in Schedule 1127.07, an addition may be constructed provided that the new addition does not encroach into the existing side yard any further than the foundation sidewalls of the existing building.

(Ord. 24-98. Passed 5-18-98.)

SCHEDULE 1127.07: MINIMUM YARD REQUIREMENTS	
District	Side Yard Depth
ML	Sixty percent (60%) of the height of the building, but not less than twenty (20) feet on interior lot lines.
MH	Seventy-five percent (75%) of the height of the building, but not less than twenty (20) feet on interior lot lines.
For each two (2) feet all side yards are increased over the required width, five (5) square feet may be subtracted from the required lot area per dwelling unit in the ML and MH Districts.	
District	Rear Yard Depth
ML	Sixty percent (60%) of the height of the building, but not less than fifty (50) feet on interior lot lines.
MH	Seventy-five percent (75%) of the height of the building, but not less than fifty (50) feet on interior lot lines.
District	Front Yard Depth
ML	The front yard, including the street side of a corner lot, shall be as established on the <i>Building Line Map</i> , or a distance equal to the height of the building measured from the base of the building to the center of the street, whichever is greater.
MH	The front yard, including the street side of a corner lot, shall be as established on the <i>Building Line Map</i> , or a distance equal to seventy-five percent (75%) of the height of the building measured from the base of the building to the center of the street, whichever is greater.

(Ord. 91-95. Passed 10-7-96.)

1127.08 OFF-STREET PARKING.

Off-street parking as regulated by Chapter 1143.

(Ord. 91-95. Passed 10-7-96.)

1127.09 MAXIMUM LOT AREA COVERAGE.

(a) The principal structure including decks, patios, etc., shall not cover more than twenty percent (20%) of the lot area in the ML District and twenty-five percent (25%) of the lot area in the MH District.

(b) Arbors, trellises, exterior steps, fences, and living fences shall be excluded from the lot coverage requirement.

(c) An accessory structure or structures shall not cover more than thirty percent (30%) of the area of the rear yard except as provided in Section 1127.03.

(Ord. 91-95. Passed 10-7-96.)

1127.10 ADDITIONAL ACCESSORY STRUCTURE REGULATIONS.

(a) Accessory structures constructed of wood, excluding swimming pools and decorative structures, shall not be located within three (3) feet of a side or rear property line.

(b) Accessory structures having masonry walls without openings and roof projections on the property line side of the structure may be set back from the rear property line and one (1) side line not less than two (2) feet.

(c) No swimming pool shall locate closer than fifteen (15) feet to the side or rear property line of the lot upon which it is situated.
(Ord. 91-95. Passed 10-7-96.)

1127.11 SUPPLEMENTAL REGULATIONS FOR ADULT FAMILY HOMES AND ADULT GROUP HOMES.

An adult family home or an adult group home shall not be located within 1,000 feet, including a public or private right-of-way, of an existing adult family home or an adult group home.

(Ord. 91-95. Passed 10-7-96.)

**CHAPTER 1129
Commercial Districts**

<p>1129.01 Purpose.</p> <p>1129.02 Principal and conditional permitted uses.</p> <p>1129.03 Accessory uses.</p> <p>1129.04 Accessory use regulations.</p> <p>1129.05 Lot area and frontage regulations.</p> <p>1129.06 Minimum yard requirement for principal uses.</p> <p>1129.07 Height regulations.</p> <p>1129.08 Off-street parking.</p> <p>1129.09 Supplemental regulations for gasoline stations.</p> <p>1129.10 Supplemental regulations for motor vehicle sales and leasing.</p>	<p>1129.11 Supplemental regulations for parking decks and parking garages.</p> <p>1129.12 Supplemental regulations for mixed-use structures.</p> <p>1129.13 Supplemental regulations for outdoor/seasonal dining facility.</p> <p>1129.14 Supplemental regulations for 24-hour operation.</p> <p>1129.15 Supplemental regulations for media stores.</p> <p>1129.16 Supplemental regulations for extended business hours of operation.</p>
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CROSS REFERENCES

Licensing for sexually oriented businesses - see BUS. REG. Ch. 777
 Definitions - see P.& Z. 1103.02
 Multiple-Family Residence Districts - see P.& Z. Ch. 1127
 Additional district regulations - see P.& Z. Ch. 1133
 Historic Preservation Districts and Historic Properties - see P.& Z. Ch. 1134
 Mixed Use Overlay District - see P.& Z. Ch. 1135
 Off-street parking - see P.& Z. Ch. 1143
 Planned Development - see P.& Z. Ch. 1156
 Antennas - see P.& Z. Ch. 1157
 Wireless telecommunication facilities - see P.& Z. Ch. 1159
 Conditional uses - see P.& Z. Ch. 1161
 Sexually oriented businesses - see P.& Z. Ch. 1163
 Signs - see BLDG. Ch. 1329

1129.01 PURPOSE.

Commercial District regulations are established to ensure the availability of suitable areas for business and commercial uses while at the same time promoting the most desirable and beneficial use of land that will stabilize and protect the character and value of the residential neighborhoods within the City. Four (4) commercial zoning districts have been established to meet the needs of the community.
 (Ord. 87-04. Passed 11-1-04.)

- (a) The **C1 Office District** has a limited application within the Central Business District of the *City*. This district seeks to preserve and protect the general character of the area and to allow for expansion around the core as dictated by market conditions.
- (b) The **C2 Retail District** is established to provide standards for the continued operation of small commercial establishments. This district would permit those retail uses that typically locate side by side to create a shopping environment that encourages pedestrian interaction between stores and where stores thrive on being adjacent to other retail uses.
- (c) The **C3 General Business District** is established to provide for commercial uses that generally require independent, freestanding buildings, larger parking areas, and may have unique traffic patterns because of such factors as drive-in facilities. (Ord. 91-95. Passed 10-7-96.)
- (d) The **C4 Public School District** is limited to property within the *City* that is owned by the Lakewood Board of Education at the time of adoption of this Ordinance. This district seeks to preserve and protect the general character of the area and to allow for development and redevelopment of these properties. Any property designated as a C4 Zoning District shall retain its zoning designation should the Board of Education transfer ownership. Any property located in the C4 Zoning District that is not in compliance with the regulations as set forth in Schedule 1129.05 requires an amendment to the *Zoning Map* pursuant to Section 1105.02 prior to transfer. (Ord. 87-04. Passed 11-1-04.)

1129.02 PRINCIPAL AND CONDITIONAL PERMITTED USES.

Unless otherwise provided by law or in this *Code*, buildings, structures or land shall only be used or occupied following the adoption of this *Code* for the uses permitted herein. Schedule 1129.02 enumerates those uses that may locate in a C1 Office, C2 Retail, C3 General Business, and C4 Public School District as a matter of right as a principal use and those uses which may locate in a given district upon obtaining a Conditional Use Permit.

- (a) A use listed in Schedule 1129.02 shall be permitted by right in a district when denoted by the letter "P," provided that all provisions of the Ordinances and this *Code* have been met.
- (b) A use listed in Schedule 1129.02 may be permitted as a conditional use in a district when denoted by the letter "C," provided that the regulations in Chapters 1161 and 1173, and all other provisions of the Ordinances and this *Code* have been met. (Ord. 91-95. Passed 10-7-96.)
- (c) Any use listed in Schedule 1129.02 as a permitted or conditionally permitted use may be permitted in a Planned Development, provided that the regulations in Chapter 1156, and all other provisions of the Ordinances and this *Code* have been met.
- (d) Any use listed in Schedule 1129.02 as a permitted or conditionally permitted use in the base zones of the Mixed Use Overlay District (MUOD) may be permitted as a conditional use in a MUOD, provided that the regulations in Chapter 1135, and all other provisions of the Ordinances and this *Code* have been met. (Ord. 61-04. Passed 7-6-04.)

SCHEDULE 1129.02: PERMITTED USES IN COMMERCIAL DISTRICTS				
	C1 OFFICE	C2 RETAIL	C3 GENERAL BUSINESS	C4 PUBLIC SCHOOL
RESIDENTIAL				
Single-Family/Two-Family Dwellings	-	-	-	C
Multi-Family Dwellings	-	C ¹	C ¹	C ¹
Mixed Use Structure	P	P	P	C ⁷
Hotels/Motels	-	-	P	C ⁷
Groups/Convalescent/Nursing/Assisted	C	C	P	C ⁷
Day-Care Centers (6+ children)	P	P	P	C ⁷
Bed and Breakfast Establishment	C	C	C	C
INSTITUTIONAL				
Funeral Homes	-	C	P	C ⁷
Places of Worship	C	C	C	C ⁷
Elementary/Secondary Schools	P	P	P	C
Trade/Vocational Schools	-	C	P	C ⁷
Colleges	C	P	P	C ⁷
Libraries	C	P	P	C ⁷
Hospitals	C	C	P	C ⁷
Public Parks and Playgrounds	C	C	C	C ⁷
Parking Facility as a Principal Use	P	P	P	C ⁷
ENTERTAINMENT				
Indoor Commercial Recreation	-	C	P	C ⁷
Theaters, Banquet Hall, Party Center	-	C	P	C ⁷
Studios for Instruction	-	P	P	C ⁷
Fraternal Organizations	-	C	P	C ⁷
Museum/Art Gallery	P	P	P	C ⁷
Auditorium	-	C	P	C ⁷
FOOD AND BEVERAGE SERVICES				
Restaurant seated Table Service	P ²	P	P	C ⁷
Restaurants – Fast Food	C ²	P	P	C ²
Bar, Tavern, Nightclub	C ²	P	P	C ²
Outdoor/Seasonal Dining Facility	C ³	C ³	C ³	C ^{3, 7}
PROFESSIONAL SERVICES				
Offices <i>Including:</i>				
Business, Medical, and Government	P	P	P	C ⁷
Medical Clinics/Urgent Care Facility	C	C	P	C ⁷
Radio/TV/Video/Audio Production	C	C	P	C ⁷

SCHEDULE 1129.02: PERMITTED USES IN COMMERCIAL DISTRICTS (Cont.)				
	C1 OFFICE	C2 RETAIL	C3 GENERAL BUSINESS	C4 PUBLIC SCHOOL
RETAIL/SERVICE USES				
<i>General Retail Including:</i>				
Book and Stationery Stores,	P	P	P	C ⁷
Apparel Stores, Florists,	P	P	P	C ⁷
Antique Stores, Sporting Good Stores	P	P	P	C ⁷
Jewelry Stores,	P	P	P	C ⁷
Second Hand and Resale Stores,	P	P	P	C ⁷
Specialty Gift Stores,	P	P	P	C ⁷
Retail Variety Stores, and	P	P	P	C ⁷
Floor Coverings.	P	P	P	C ⁷
Media Stores				
	P ⁴	P ⁴	P ⁴	C ⁷
<i>Sexually Oriented Businesses Including:</i>				
Adult Arcades,	P ⁵	P ⁵	P ⁵	-
Adult Cabarets,	P ⁵	P ⁵	P ⁵	-
Adult Media Stores,	P ⁵	P ⁵	P ⁵	-
Adult Novelty Stores, ⁶	P ⁵	P ⁵	P ⁵	-
Adult Motion Picture Theaters,	P ⁵	P ⁵	P ⁵	-
Adult Theaters,	P ⁵	P ⁵	P ⁵	-
Nude Model Studios,	P ⁵	P ⁵	P ⁵	-
Sexual Encounter Centers,	P ⁵	P ⁵	P ⁵	-
Any combination of above.	P ⁵	P ⁵	P ⁵	-
<i>Service Retail, Including:</i>				
Printing Services,	C ²	P	P	C ^{2,7}
Shoe Repair,	C ²	P	P	C ^{2,7}
Photographic Studios,	C ²	P	P	C ^{2,7}
Tailoring, Dress Making and	C ²	P	P	C ^{2,7}
Dry Cleaning,	C ²	P	P	C ^{2,7}
Upholstery.	C ²	P	P	C ^{2,7}
<i>Convenience Retail, Including:</i>				
Bakeries, Grocery,	P	P	P	C ⁷
Supermarkets,	P	P	P	C ⁷
Beverage Stores including	P	P	P	C ⁷
Liquor, Film/Video Rental, and Drug	P	P	P	C ⁷

SCHEDULE 1129.02: PERMITTED USES IN COMMERCIAL DISTRICTS (Cont.)				
	C1 OFFICE	C2 RETAIL	C3 GENERAL BUSINESS	C4 PUBLIC SCHOOL
Hard Goods Retail <i>Including:</i>				
Automotive Part and Supplies,	-	P	P	C ⁷
Furniture Sales,	-	P	P	C ⁷
Hardware and Locksmith Services,	-	P	P	C ⁷
Garden Supplies, Nurseries,	-	P	P	C ⁷
Lumber and Building Supplies,	-	P	P	C ⁷
Appliance Repair and Sales, and	-	P	P	C ⁷
Display and Showrooms for any	-	P	P	C ⁷
Building Product.	-	P	P	C ⁷
Personal Care Services <i>Including:</i>				
Barber and Beauty Shops,	C ²	P	P	C ^{2,7}
Cosmetology and Cosmetic Salons,	C ²	P	P	C ^{2,7}
Diet Counseling Centers,	C ²	P	P	C ^{2,7}
Electrolysis Services,	C ²	P	P	C ^{2,7}
Fingernail and Tanning Salons, and	C ²	P	P	C ^{2,7}
Massotherapy Services.	C ²	P	P	C ^{2,7}
OTHER RETAIL/SERVICES <i>Including:</i>				
Animal Clinics/Hospitals,	-	C	P	C ⁷
Veterinarian Offices, and	-	C	P	C ⁷
Grooming Services.	-	C	P	C ⁷
LAUNDROMAT	-	P	P	C ⁷
STORAGE WHOLESALE/UTILITY <i>Including:</i>				
Warehousing,	-	-	C	-
Wholesale Trade Operations,	-	-	C	-
Self-Storage Facility.	-	-	C	-
AUTOMOTIVE SERVICES				
Gasoline Service Station	-	C	P	-
Motor Vehicle Sales and Leasing	-	C	P	-
Motor Vehicle Repair Shop	-	C	C	-
Motor Vehicle Rental or Leasing Agency	C	C	C	-
Motor Vehicle Washing/Detailing Facility	-	C	C	-

SCHEDULE 1129.02: PERMITTED USES IN COMMERCIAL DISTRICTS (Cont.)				
	C1 OFFICE	C2 RETAIL	C3 GENERAL BUSINESS	C4 PUBLIC SCHOOL
INDUSTRIAL <i>Including:</i>				
Manufacturing, Processing,	-	-	C	-
Assembly, and/or Packaging Plant.	-	-	C	-
Light Industrial (as above, no more than 1,000 sq.ft. or five [5] employees.)	-	C	P	-

- 1 As regulated by Chapter 1127.
- 2 Use is limited to the ground floor of the structure.
- 3 Permitted only as an accessory use and limited to the ground floor level.
- 4 Reference Sections 1103.02(o), 1103.02(tt) and 1103.02(uu), and Section 1129.15 herein.
- 5 As regulated by Chapter 1163 and Chapter 777.
- 6 Reference Section 1103.02(i), or Chapter 1163.
- 7 Use shall be limited to Detroit Avenue and/or Madison Avenue as regulated by Chapters 1156 and 1161.
(Ord. 87-04. Passed 11-1-04.)

1129.03 ACCESSORY USES.

The following accessory uses are permitted in association with and subordinate to a permitted or conditionally permitted use in the C1, C2, C3, or C4 Commercial Districts subject to the regulations of Section 1129.04.

(Ord. 87-04. Passed 11-1-04.)

- (a) Signs as permitted and regulated by Chapter 1329 of the Building Code.
- (b) All accessory uses permitted within a Multiple-Family District in connection with permitted multiple-family dwellings as regulated in Chapter 1127.
(Ord. 91-95. Passed 10-7-96.)

1129.04 ACCESSORY USE REGULATIONS.

Accessory uses buildings and structures permitted in the C1, C2, C3, or C4 Commercial Districts shall conform to the regulations of this Section.

(Ord. 87-04. Passed 11-1-04.)

- (a) Off-Street Parking Lots. Off-street parking spaces in a parking lot may be located on the same lot as the principal use service or may be located on a separate lot in accordance with Chapter 1143.
- (b) Location of Accessory Buildings. Accessory buildings shall be located in a rear yard, and may be located in a side yard that is in compliance with the yard regulations for principal uses set forth in Schedule 1129.06.
(Ord. 91-95. Passed 10-7-96.)
- (c) Wireless Telecommunication Antenna(s). The installation of a wireless telecommunication antenna(s) provided they comply with the standards of Chapter 1159.
(Ord. 24-98. Passed 5-18-98.)

1129.05 LOT AREA AND FRONTAGE REGULATIONS.

Principal buildings and uses permitted in the C1, C2, C3, and C4 Commercial Districts shall be located only on a lot that complies with the lot area and frontage regulations set forth in Schedule 1129.05, unless otherwise specifically provided for elsewhere in this *Code*.

SCHEDULE 1129.05: LOT AREA AND FRONTAGE REGULATIONS				
	C1 OFFICE	C2 RETAIL	C3 GENERAL BUSINESS	C4 PUBLIC SCHOOL
Minimum Lot Area	6,000	5,000	10,000	10,000
Minimum Lot Frontage	50	40	80	80

(Ord. 87-04. Passed 11-1-04.)

1129.06 MINIMUM YARD REQUIREMENT FOR PRINCIPAL USES.

In C1, C2, C3, and C4 Commercial Districts, each zoning lot shall maintain the minimum front, side and rear yard specified in Schedule 1129.06, except as otherwise provided for in this Section. Each yard shall be unobstructed by a principal use, including outdoor storage of goods, supplies and equipment as permitted in this Section, or a principal building, except as otherwise provided in this *Code*. Such areas, together with all other portions of the zoning lot not covered by permitted structures, shall be landscaped with grass, trees, shrubbery and/or other appropriate ground cover or landscaping material, which at all times shall be maintained in good and healthy condition so as to assure adequate screening of parking and loading areas, as well as absorption of rainfall.

SCHEDULE 1129.06: MINIMUM YARD REQUIREMENTS				
	C1 OFFICE	C2 RETAIL	C3 GENERAL BUSINESS	C4 PUBLIC SCHOOL
Front Yard Depth	As established on the <i>Building Line Map</i>			
Rear Yard Depth	One-half (½) the height of the building, but in no case less than five (5) feet ³			
Side Yard Width	none ^{1,3}	none ^{1,3}	5 feet ³	5 feet ³
Side/Rear Yard Depth where adjacent to a residential use or district	10 feet ^{2,3}	5 feet ³	10 feet	10 feet

- 1 On a corner lot the side street yard shall be five (5) feet.
- 2 May be reduced to five (5) feet if a wall or fence with adequate landscape screening is provided.
- 3 Roof exhausts must be ten (10) feet from property line.

(Ord. 91-95. Passed 10-7-96; Ord. 87-04. Passed 11-1-04.)

1129.07 HEIGHT REGULATIONS.

In the C1 Office, C2 Retail, C3 General Business, and C4 Public School District the height of a principal structure shall not exceed 120 feet; the height of an accessory structure shall not exceed twenty (20) feet, unless otherwise specified in this *Code*.

(Ord. 91-95. Passed 10-7-96.)

1129.08 OFF-STREET PARKING.

Off-street parking shall be provided, pursuant to Chapter 1143.

(Ord. 91-95. Passed 10-7-96.)

1129.09 SUPPLEMENTAL REGULATIONS FOR GASOLINE STATIONS.

In addition to the above regulations, gasoline stations permitted in a C3 General Business District shall comply with the following standards. Conditionally permitted gasoline stations in the C2 Retail Business District shall also comply with the regulations for conditional uses set forth in Chapter 1161.

- (a) Gasoline stations located on a corner lot shall have not less than 100 feet frontage on each of the two (2) intersecting streets.
- (b) Fuel pumps may be erected in a front yard but not less than twenty-five (25) feet from the public right-of-way.
- (c) A landscaped area at least five (5) feet wide shall be provided on private property adjacent to the public sidewalk areas, except where interrupted by driveways.
- (d) A canopy may be constructed over the pump island provided the canopy shall be no closer than fifteen (15) feet to the right-of-way.
- (e) The only services permitted to be performed on a vehicle shall be the dispensing of fuel, oil, air and other motor vehicle fluids.
- (f) The location, display or storage of rental trailers, automobiles, trucks or other rental equipment on the premises is not permitted.
- (g) No merchandise, except fluids normally associated with the operation of a motor vehicle (e.g.: oil and windshield washer fluid), may be displayed outside the principal structure.
- (h) Except while being serviced at a pump island, no vehicles shall be parked between the pump setback line and the front property line; nor on a corner lot shall any vehicles be parked between the pump setback line and the property line on either of the intersecting streets.
- (i) No junk or unlicensed motor vehicles will be permitted to remain on gasoline station property outside the principal structure for more than forty-eight (48) hours.
- (j) All outdoor wiring, including electrical and telephone wiring, shall be installed underground, excluding utility services.
- (k) Locations where such use abuts a residential district or use shall provide landscaping and screening, approved by the Architectural Board of Review pursuant to Chapter 1141; said landscaped area shall be not less than ten (10) feet wide.

(Ord. 91-95. Passed 10-7-96.)

1129.10 SUPPLEMENTAL REGULATIONS FOR MOTOR VEHICLE SALES AND LEASING.

In addition to the above regulations, business establishments for motor vehicle sales, new or new and used, or automobile leasing permitted in a C3 General Business District shall comply with the following standards. Conditionally permitted establishments in the C2 Retail Business District shall also comply with the regulations set forth in Title Five.

- (a) The sale and/or lease of new motor vehicles as a principal use shall be conducted by a dealer who is subject to a franchise agreement principally for the sale of new motor vehicles. The sale and/or lease of used motor vehicles may be permitted as an accessory use to such principal use; such accessory use may be located on a lot other than the lot on which the principal use is located. The sale of used motor vehicles is not a permitted principal use.
- (b) The service garage, leasing department and other activities customarily incidental to a full service franchised automobile dealer shall be permitted as accessory to the sale of automobiles provided these activities are conducted in a wholly enclosed building.
- (c) Only repair of motor vehicles customarily associated with new motor vehicle sales shall be permitted, and shall be conducted inside a suitable building.
- (d) No motor vehicle not available for sale or lease, or any junk or inoperative motor vehicle may be stored so as to be visible from the public right-of-way for more than a twenty-four (24) hour period.
- (e) All outdoor wiring, including electrical and telephone wiring, shall be installed underground, excluding utility services.
- (f) Locations where such use abuts a residential district or use shall provide landscaping and screening, approved by the Architectural Board of Review pursuant to Chapter 1141; said landscaped area shall be not less than ten (10) feet wide.
(Ord. 91-95. Passed 10-7-96.)

1129.11 SUPPLEMENTAL REGULATIONS FOR PARKING DECKS AND PARKING GARAGES.

Off-street parking decks and parking garages may be located on the same lot as the principal use, or may be located on a separate lot in accordance with Section 1143.06, and shall comply with the following standards:

- (a) All parking decks and parking garages shall be approved by the Architectural Board of Review;
- (b) A parking deck or parking garage shall comply with the yard requirements for a principal use specified in Schedule 1129.06 except that open parking decks and open garages in which vehicles are visible from the street shall be located not less than the distance dictated by adjoining structures or in their absence as established by the *Building Line Map*.
(Ord. 91-95. Passed 10-7-96.)

1129.12 SUPPLEMENTAL REGULATIONS FOR MIXED-USE STRUCTURES.

- (a) No dwelling units shall be on the ground floor.
- (b) No dwelling units shall be on the same floor as another permitted use.
- (c) In a building having dwelling units and other permitted uses, the other permitted uses shall be limited to the ground floor and consecutive floors.
(Ord. 91-95. Passed 10-7-96.)

1129.13 SUPPLEMENTAL REGULATIONS FOR OUTDOOR/SEASONAL DINING FACILITY.

(a) Outdoor/Seasonal Dining Facility - means an outdoor dining area or an area wherein twenty-five percent (25%) or more of any exterior wall is movable and is connected or attached to an indoor restaurant, bar, tavern or nightclub. Such a facility shall only be permitted as a conditionally permitted accessory use in the C1 Office, C2 Retail, C3 General Business, C4 Public School District, PD Planned Development and I Industrial Districts.
(Ord. 70-07. Passed 3-2-09.)

(b) A conditionally permitted outdoor/seasonal dining facility shall comply with the following regulations and those for conditional uses set forth in Chapter 1161.

- (1) Outdoor/seasonal dining is used in conjunction with, and is under the same management and exclusive control of, a restaurant, bar, tavern or nightclub located on the same or contiguous property;
- (2) The outside seating capacity shall not exceed twenty-five percent (25%) of the restaurant, bar, tavern or nightclub seating capacity.
- (3) Carry out food establishments may be issued a permit for an outdoor/seasonal dining facility, with a maximum of eight (8) outdoor seats, at the discretion of the Commissioner without the necessity of a conditional use determination by the Commission, subject to the provisions of Section 1161.03(t) as determined to be applicable by the Commissioner.
(Ord. 87-04. Passed 11-1-04.)

1129.14 SUPPLEMENTAL REGULATIONS FOR 24-HOUR OPERATION.

(a) 24-Hour Operation - means a store or any other place of business operating consecutively for twenty-four (24) hours.

(b) Any store or other place of business, including but not limited to all permitted or conditionally permitted uses in the C1 Office, C2 Retail, C3 General Business, and C4 Public School District outlined in Section 1129.02 herein, having an entrance, exit, parking lot, loading dock, trash enclosure, or show window within 250 feet of any single-family, two-family, or multiple-family residential district, shall only be permitted 24-hour operation as a conditionally permitted use.
(Ord. 87-04. Passed 11-1-04.)

(c) Any store or other place of business which is subject to regulation pursuant to subsection (a) above and is also operating under a valid permit to sell or serve alcoholic beverages, as issued by the State of Ohio pursuant to Title 43 of the Ohio Revised Code, shall be exempt from the provisions of this Chapter only to the extent necessary to avoid conflict between the regulations herein and State law governing such liquor permit holders, provided further that nothing in the provisions of the Chapter shall be construed to sanction or permit the sale or service of alcoholic beverages in violation of State law.

(d) For purposes of this Chapter, the terms “store or other place of business” shall not be construed to include hospitals and emergency medical centers, regardless of their location in relation to any residential district, and are therefore exempt from the provisions of this Chapter.

(e) A conditionally permitted 24-hour operation shall comply with the regulations set forth within this Chapter and those in Chapter 1161.

(f) When a request for a conditional use is applied for under the provisions of this section, notice indicating the time, place and subject of the Planning Commission public hearing held pursuant to subsection 1171.03(f) shall be sent by regular mail to the owners of all properties within a minimum of a 500 foot radius of the subject property. Such conditional use request shall also be subject to the notice procedures as set forth in subsection 1173.02(c).
(Ord. 40-00. Passed 7-17-00.)

1129.15 SUPPLEMENTAL REGULATIONS FOR MEDIA STORES.

Conditions applicable to certain businesses carrying adult media.

- (a) Applicability: This section shall apply to any book store, media store, or video store, in which adult media constitutes more than ten percent (10%) but not more than forty percent (40%) of the stock in trade, or where adult media occupies more than ten percent (10%) but not more than forty percent (40%) of the gross public floor area.
- (b) Prohibition of Public Display: The owner or operator of a store to which this section is applicable shall have the affirmative duty to prevent the public display of adult media at or within the portion of the business open to the general public.
- (c) Display of Adult Media: Adult media in a store shall be kept in a separate room or section of the store, which room or section shall:
- (1) Not be open to any person under the age of eighteen (18);
 - (2) Be physically and visually separated from the rest of the store by an opaque wall of durable material, reaching at least eight (8) feet high or to the ceiling, whichever is less;
 - (3) Be located so that the entrance to it is as far as reasonably practicable from media or other inventory in the store likely to be of particular interest to children; and
 - (4) Have access controlled by electronic or other means to provide assurance that persons under age eighteen (18) will not gain admission and that the general public will not accidentally enter such room or section.
- (Ord. 25-01. Passed 7-2-01.)

1129.16 SUPPLEMENTAL REGULATIONS FOR EXTENDED BUSINESS HOURS OF OPERATION.

(a) Any store or other place of business, including but not limited to all permitted or conditionally permitted uses in the C1 Office, C2 Retail, C3 General Business, and C4 Public School District outlined in Section 1129.02 herein, having an entrance, exit, parking lot, loading dock, trash enclosure, or show window within 250 feet of any single-family, two-family, or multiple-family residential district, shall only be permitted to be open for the transaction of business after 12:00 a.m. or before 6:00 a.m. of any day as a conditionally permitted use.

(b) Any store or other place of business which is subject to regulation pursuant to subsection (a) above and is also operating under a valid permit to sell or serve alcoholic beverages, as issued by the State of Ohio pursuant to Title 43 of the Ohio Revised Code, shall be exempt from the provisions of this Chapter only to the extent necessary to avoid conflict between the regulations herein and State law governing such liquor permit holders, provided further that nothing in the provisions of the Chapter shall be construed to sanction or permit the sale or service of alcoholic beverages in violation of State law.

(c) For purposes of this Chapter, the terms “store or other place of business” shall not be construed to include hospitals and emergency medical centers, regardless of their location in relation to any residential district, and are therefore exempt from the provisions of this Chapter.

(d) A conditional permit for extended business hours of operation shall comply with the regulations set forth within this Chapter and those in Chapter 1161.
(Ord. 124-05. Passed 2-6-06.)

**CHAPTER 1131
Industrial District**

1131.01	General provisions.	1131.06	Height regulations.
1131.02	Permitted principal uses.	1131.07	Lot area and width regulations.
1131.03	Permitted accessory uses.	1131.08	Yard regulations.
1131.04	Conditionally permitted uses.	1131.09	Off-street parking.
1131.05	Prohibitions.		

CROSS REFERENCES

Additional district regulations - see P.& Z. Ch. 1133

Off- street parking - see P.& Z. Ch. 1143

Fences - see P.& Z. Ch. 1153

Wireless telecommunication facilities - see P.& Z. Ch. 1159

Signs - see BLDG. Ch. 1329

1131.01 GENERAL PROVISIONS.

The following regulations shall apply to all Industrial (I) Districts.
(Ord. 91-95. Passed 10-7-96.)

1131.02 PERMITTED PRINCIPAL USES.

In any Industrial District, no building or premises shall be used, arranged to be used or designed to be used except for one (1) or more of the following uses:

- (a) Research and development uses relating to product development, testing laboratory, and minor fabricating and assembly operations.
- (b) Wholesaling and storage uses associated with transporting, storing, handling or selling merchandise primarily to retailers, industrial, institutional, or professional users, or to other wholesalers, or acting as agents in buying merchandise for such persons or organizations.
- (c) Manufacturing uses including all uses involving processing, fabrication, packaging, assembly, and related functions whether using machinery or labor and associated with industrial operations of producing goods, components and other related items.
- (d) Trade services including establishments engaged in the general construction, maintenance, or repair of tangible personal property, buildings, or fixtures.
- (e) Building materials, sales yard and lumberyard, millwork when within a completely enclosed building.
- (f) Contractor's equipment storage yard or plant, or storage and rental of equipment commonly used by contractors.

- (g) Public storage garage and yards.
(Ord. 91-95. Passed 10-7-96.)
- (h) Office use including all uses involving professional, clerical and administrative activities.
(Ord. 124-05. Passed 2-6-06.)

1131.03 PERMITTED ACCESSORY USES.

- (a) Accessory uses clearly incidental to the principal uses permitted on the same lot.
- (b) Signs, pursuant to Chapter 1329 of the Building Code.
(Ord. 91-95. Passed 10-7-96.)

1131.04 CONDITIONALLY PERMITTED USES.

In an Industrial District, a telecommunication tower may be permitted as a conditionally permitted use where the proposed use complies with all the requirements of Section 1159.04(b) of the *Code*.
(Ord. 24-98. Passed 5-18-98.)

1131.05 PROHIBITIONS.

- (a) No explosive materials or devices may be manufactured in an Industrial District, Section 1131.02 notwithstanding. The storage of combustible or flammable materials must conform to all local codes.
- (b) No smoke, fumes, odors, dust, noise, vibration or glaring light which may be detrimental to the public health, safety or welfare may be transmitted to any lot occupied by a residential use.
(Ord. 91-95. Passed 10-7-96.)

1131.06 HEIGHT REGULATIONS.

No structure in the Industrial District shall exceed fifty-five (55) feet in height above the grade of the street on which it fronts.
(Ord. 91-95. Passed 10-7-96.)

1131.07 LOT AREA AND WIDTH REGULATIONS.

In an Industrial District no lot shall have an area of less than one-half ($\frac{1}{2}$) acre or a width of less than eighty (80) feet at the building line.
(Ord. 91-95. Passed 10-7-96.)

1131.08 YARD REGULATIONS

- (a) Minimum front yard depth: fifty (50) feet.
- (b) Minimum rear yard depth: twenty-five (25) feet.
- (c) Minimum side yard depth: twenty-five (25) feet.

(d) When an Industrial District lot adjoins a residential district lot, a minimum side yard width and rear yard depth equal to the height of the industrial-use structure or the requirements of subsections (b) and (c) of this Section 1131.08, whichever is greater, shall be required on the side of the lot in common with the residential lot.
(Ord. 91-95. Passed 10-7-96.)

1131.09 OFF-STREET PARKING.

Off-street parking as regulated by Chapter 1143.
(Ord. 91-95. Passed 10-7-96.)

CHAPTER 1133
Additional District Regulations

<p>1133.01 Occupancy of dwelling.</p> <p>1133.02 Structure in front of building line.</p> <p>1133.03 Garages.</p> <p>1133.04 Frontage.</p> <p>1133.05 Parking of commercial vehicles.</p> <p>1133.06 Conversion of single-family structure prohibited.</p>	<p>1133.07 Measurement of building height.</p> <p>1133.08 Demolition or removal of principal structures on commercial or industrial properties.</p> <p>1133.09 Demolition or removal of residential structures.</p>
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CROSS REFERENCES

Code of Federal Regulations - see Part 1208, Title 36

Architectural Board of Review - see BLDG. Ch. 1325

Historic Preservation Districts and Historic Properties - see P.& Z. Ch. 1134

Fees - see P.& Z. 1173.06

1133.01 OCCUPANCY OF DWELLING.

No more than one (1) family shall occupy a dwelling or dwelling unit.
(Ord. 91-95. Passed 10-7-96.)

1133.02 STRUCTURE IN FRONT OF BUILDING LINE.

(a) No structure or portion thereof shall be constructed or placed in front of the building line.

(b) On a corner lot, an accessory structure shall not be placed closer to the intersecting street than the principal structure on the abutting lot fronting said intersecting street.
(Ord. 91-95. Passed 10-7-96.)

1133.03 GARAGES.

A garage, which is accessory to a residential use shall have a working door or doors.
(Ord. 91-95. Passed 10-7-96.)

1133.04 FRONTAGE.

All lots shall front an improved street or private street.
(Ord. 91-95. Passed 10-7-96.)

1133.05 PARKING OF COMMERCIAL VEHICLES.

Parking commercial motor vehicles in a yard area in a residential district shall not be deemed an accessory use and is prohibited.

(Ord. 91-95. Passed 10-7-96.)

1133.06 CONVERSION OF SINGLE-FAMILY STRUCTURE PROHIBITED.

No single-family structure shall be converted to or enlarged or altered to accommodate more than one (1) family.

(Ord. 91-95. Passed 10-7-96.)

1133.07 MEASUREMENT OF BUILDING HEIGHT.

(a) The height of any structure shall be measured from the mean curb level, as determined by the Commissioner; the height of any building shall be measured from the as-determined mean curb level to the highest point of the roof or, where structures extend in whole or in part above the roof, to the highest point of such structure, exclusive of television antennas, chimneys, and/or air conditioning equipment.

(b) Where unique site conditions exist, the Commissioner may measure the height of any structure from a point on the lot not less than three (3) feet from the foundation wall of a building, or footer or base of a structure.

(Ord. 91-95. Passed 10-7-96.)

1133.08 DEMOLITION OR REMOVAL OF PRINCIPAL STRUCTURES ON COMMERCIAL OR INDUSTRIAL PROPERTIES.

(a) Requirements Before Demolition or Removal of Principal Structures on Commercial or Industrial Properties. No demolition or removal of a principal structure in a C1 Office, C2 Retail, C3 General Business, C4 Public School District and the Industrial District shall be permitted unless and until one (1) of the following conditions is satisfied:

- (1) The Safety Director of the *City* authorizes the Commissioner to grant a demolition or removal permit, based on causes such as fire or other source of property damage or loss, in order to remedy conditions immediately dangerous to life, health or property, or to remedy a nuisance, as jointly determined and recommended by the Commissioner, the Fire Chief, the *City* Engineer and the Director of the Division of Health; or
- (2) The passage of 180 days following application to the Commissioner for a demolition permit or permit to move a principal structure, during which time the applicant has further made good faith application to all required boards and commissions of the *City* for approval of new development plans at the location of such property; or
- (3) The proposed new building(s) and/or structure(s) at the location of such property conforms to the design requirements set forth in Chapter 1325 of the Building Code and has been approved by the Architectural Board of Review, and by any other required boards and commissions of the *City*, in order to proceed with new development plans. In addition, notwithstanding any other requirements, all approvals for such new development plans shall be based on the following factors:

- A. The new development plans are consistent with the *Code*, the *Lakewood Community Vision* and the “Standards for Rehabilitation” adopted by the U.S. Secretary of the Interior, as stated in Title 36 of the Code of Federal Regulations, Part 1208 (Formerly of Part 67); and
- B. The new development plans are consistent with any historic or aesthetic features of the commercial or industrial property being replaced and/or the nature and appearance of the surrounding neighborhood.
- C. The Secretary of all such required boards and commissions of the *City* shall immediately notify the Commissioner of compliance with the provisions of this sub-section by any applicant that would allow and provide for the issuance of a demolition permit or a removal permit by the Commissioner.

(b) Demolition or Removal Delay Period. The time period before a demolition or removal permit can be issued in a C1, C2, C3, C4 and Industrial District is provided in order to permit the *City*, public agencies, civic groups and other interested parties a reasonable opportunity to study, comment and propose potential alternatives or modifications to the proposed new development plans. During such time period, if the *City* and other interested parties deem preservation appropriate, the applicant shall undertake meaningful and continuing discussions with the *City* and other interested parties for the purpose of preserving such principal structure.

(c) A demolition or removal permit shall comply with the regulations set forth within this Chapter and those in Section 1171.03.

(d) Fees. A review and recording fee, established pursuant to Section 1173.06, shall be included with the application.
(Ord. 49-98. Passed 2-16-99; Ord. 124-05. Passed 6-6-06.)

1133.09 DEMOLITION OR REMOVAL OF RESIDENTIAL STRUCTURES.

(a) *Lakewood* consists of very distinctive neighborhoods that were settled at different times during its development each with its own distinctive housing patterns, which are reflective of the time period during which these neighborhoods were nurtured during the growth of the *City*. Many of these residential neighborhoods are easily recognizable by their consistency of characteristics such as height, setbacks and side yards as well as their distinctive exterior façade design elements including, but not limited to, porches and steps, masonry, stoops, cornices and trims, doors and windows and other architectural styles and features, which over the years created a neighborhood environment and streetscape that brought neighbors together.

In a correspondence from the Ohio Historic Preservation Office dated May 5, 1992, their opinion is that the entire *City* constitutes a single historic district, eligible for listing in the National Register of Historic Places. As stated in their letter, “The *City* is significant as a late nineteenth and early twentieth century streetcar suburb. The *City* is also unique in that for a community of its size and density it retains remarkable integrity to convey both its historic and architectural significance.”

As a result of the Ohio Historic Preservation findings, the *City* encourages conservation, preservation, redevelopment, and revitalization of residential neighborhoods to preserve their unique environments and for the public welfare of the *City*. The *City* acknowledges as a matter of public policy that the preservation and protection of residential neighborhoods is required for the health, safety and welfare of the people.

(b) Requirements Before Demolition or Removal of Principal Structures on Residential Properties. No demolition or removal of a principal structure, built in 1945 or earlier, in an R1H Single-Family, high density, R1M Single-Family, medium density, R1L Single-Family, low density, R2 Single- and Two-Family, L Lagoon, MH Multiple-Family, high density and ML Multiple-Family, low density, Residential Districts shall be permitted unless and until one (1) of the following conditions is satisfied:

- (1) The Safety Director of the *City* authorizes the Commissioner to grant a demolition or removal permit, based on causes such as fire or other source of property damage or loss, in order to remedy conditions immediately dangerous to life, health or property, or to remedy a nuisance, as jointly determined and recommended by the Commissioner, the Fire Chief, the *City* Engineer and the Director of the Division of Health; or
- (2) The passage of 180 days following application to the Commissioner for a demolition permit or permit to move a principal structure, during which time the applicant has further made good faith application to all required boards and commissions of the *City* for approval of a new principal structure at the location of such property; or
- (3) The proposed principal structure at the location of such property conforms to the design requirements set forth in Chapter 1325 of the Building Code and has been approved by the Architectural Board of Review, and by any other required boards and commissions of the *City*, in order to proceed with the new principal structure. In addition, notwithstanding any other requirements, all approvals for such proposed principal structure shall be based on the following factors:
 - A. The proposed principal structure is consistent with the *Code*, the *Vision* and the “Standards for Rehabilitation” adopted by the U.S. Secretary of the Interior, as stated in Title 36 of the Code of Federal Regulations, Part 1208 (Formerly of Part 67); and
 - B. The proposed principal structure is consistent with any historic or aesthetic features of the residential property being replaced and/or the nature and appearance of the surrounding neighborhood.
 - C. The Secretary of all such required boards and commissions of the *City* shall immediately notify the Commissioner of compliance with the provisions of this section by any applicant that would allow and provide for the issuance of a demolition permit or a removal permit by the Commissioner.

(c) Demolition or Removal Delay Period. The time period before a demolition or removal permit can be issued in an R1H, R1M, R1L, R2, L, MH and ML is provided in order to permit the *City*, public agencies, civic groups and other interested parties a reasonable opportunity to study, comment and propose potential alternatives or modifications to the proposed new principal structure. During such time period, if the *City* and other interested parties deem preservation appropriate, the applicant shall undertake meaningful and continuing discussions with the *City* and other interested parties for the purpose of preserving such principal structure.

(d) A demolition or removal permit shall comply with the regulations set forth within this Chapter and those in Section 1171.03.

(e) Fees. A review and recording fee, established pursuant to Section 1173.06, shall be included with the application.
(Ord. 124-05. Passed 2-6-06.)

CHAPTER 1134
Historic Preservation Districts (HPD)
and Historic Properties (HP)

<p>1134.01 Purpose.</p> <p>1134.02 Definitions.</p> <p>1134.03 Procedures for identification, review, and designation of an HPD or HP or landmarks.</p> <p>1134.04 Location of an HPD or HP.</p> <p>1134.05 Permitted accessory uses.</p> <p>1134.06 Procedures for the review of proposed alterations, demolition and new construction and for issuance of approval to proceed with work (Certificate of Appropriateness).</p>	<p>1134.07 Economic hardship; application filed after denial of a Certificate of Appropriateness.</p> <p>1134.08 Demolition or removal of structures in an HPD or an HP.</p> <p>1134.09 Rescission of a designation or determination.</p> <p>1134.10 Exclusions.</p> <p>1134.11 Fees.</p> <p>1134.12 Affirmative maintenance.</p> <p>1134.13 Penalty.</p> <p>1134.14 Severability.</p>
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CROSS REFERENCES

Publication of legal notices - see ADM. Ch. 107
 Single-Family Residential Districts - see P.& Z. Ch. 1121
 Single- and Two-Family Residential Districts - see P.& Z. Ch. 1123
 Lagoon District - see P.& Z. Ch. 1125
 Multiple Family Residential Districts - see P.& Z. Ch. 1127
 Commercial Districts - see P.& Z. Ch. 1129
 Additional district regulations - see P.& Z. Ch. 1133
 Administrative powers and duties - see P.& Z. Ch. 1171
 Procedures - see P.& Z. Ch. 1173

1134.01 PURPOSE.

(a) The purpose of this Chapter is to promote the health, safety and welfare of the citizens of the *City* by providing for the identification, protection, enhancement, perpetuation and use of areas, places, buildings, structures, works of art and other objects having a special historical, community or aesthetic interest or value, so that the following objectives are reached:

- (1) To maintain and enhance the distinctive and/or aesthetic character, diversity and interest of the *City*.
- (2) To safeguard the architectural integrity of the *City's* designated Historic Preservation Districts (HPD) and Historic Properties (HP).

- (3) To safeguard the heritage of the *City* by preserving places, sites, buildings and structures, which reflect elements of the *City's* cultural, social, economic, political, architectural or archaeological heritage.
- (4) To seek alternatives to demolition or incompatible alterations in the HPD and to HP's before such acts are performed.
- (5) To afford the widest possible scope of continuing vitality through private renewal and architectural creativity within appropriate controls and standards.

(b) The purpose of the HPD or HP designation and determination provided for in this Chapter is to contribute to the economic, recreational, cultural and educational development of the *City* by:

- (1) Fostering a sense of community identification and civic pride by preserving areas, places, buildings, structures, works of art and other objects which reflect periods, events in history, notable accomplishments of the past and significant persons of the community and its region;
 - (2) Protecting and enhancing the *City's* attributes for residents, prospective residents, visitors and tourists;
 - (3) Strengthening the economy of the *City*;
 - (4) Stabilizing and improving property values;
 - (5) Facilitating the reinvestment in and revitalization of certain districts and neighborhoods;
 - (6) Promoting use and preservation of historic sites and structures for the education and general welfare of residents of the *City*.
- (Ord. 105-07. Passed 5-19-08.)

1134.02 DEFINITIONS.

(a) **ALTER** or **ALTERATION** for the purposes of this Chapter, shall include a change in design, material color, texture, material or exterior architectural feature and shall also include any additions to existing areas, places, buildings, structures, works of art or other objects. The correction of any deterioration or damage to an area, place, building, structure, work of art or other object and restoration to its condition prior to such deterioration or damage is excluded from the definition of alteration, provided such work does not involve a change in design, material color, texture material or exterior architectural feature.

(b) **CERTIFICATE OF APPROPRIATENESS** means a certificate issued either by the Architectural Board of Review indicating that proposed design plans for alteration, or by the Commission for demolition of a property within the HPD or the HP, is in accordance with the provisions of this Chapter.

(c) **DESIGNATION** and **DETERMINATION** means respectively the initial process by the Commission to identify appropriate districts and properties for implementation of this Chapter and the actual outcome of an application process to implement and make effective this Chapter for any specific district or property;

(d) **DEMOLISH** or **DEMOLITION** means the razing or removal, in whole or in part, of any area, place, building, structure, work of art or other object.

(e) **EXTERIOR ARCHITECTURAL FEATURE(S)** means the architectural style, general design and general arrangement of the exterior of a building or structure including, but not limited to, windows, doors, porches, cornices, exterior wall materials, decorative trim, chimneys, roof structure and roof materials, and other fixtures appurtenant to the exterior of the building or structure.

(f) **MATERIAL COLOR** means the color inherent to a material such as brick or stone. It shall not be construed to refer to exterior painting.

(g) **PRESERVATION** means the act or process of applying measures to sustain the existing form, integrity and material of an area, place, building, structure, work of art or other object.

(h) **SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION** means the United States Secretary of the Interior's Standards For Rehabilitation codified at 36 CFR 67 of the Code of Federal Regulations, as the same may be amended from time to time and associated guidelines established by the Commission, that form the criteria used by the Architectural Board of Review when considering an application for a Certificate of Appropriateness in an HPD or for an HP.

(i) **UNIQUE HISTORIC GUIDELINES** means any specific guidelines adopted by the Commission, either at the time of designation of an HPD or HP, or upon subsequent revision and review, to govern any such designated HPD or HP.
(Ord. 105-07. Passed 5-19-08.)

1134.03 PROCEDURES FOR IDENTIFICATION, REVIEW AND DESIGNATION OF AN HPD OR HP OR LANDMARKS.

(a) Relationship to Base Districts: The HPD or HP is the designation of an additionally restricted zone, or specific property restrictions for an historic property, within any zone, which may be applied to existing zoning districts as described herein. When such a district or property is established, the HPD or HP shall be shown as an indication to the underlying districts by the designation of HPD for Historic Preservation District, or HP for Historic Properties, on the Zoning Map.

A HPD or HP may cross or transit several base districts, however, the uses permitted in each base district are limited to the boundaries of that base district, except as otherwise provided herein.

(b) Initial Designation Procedure: The Commission may propose designations of any area, place, building, structure, work of art or other object as an HPD or HP on its own initiative or upon the recommendation of the Heritage Advisory Board or upon a request by an owner of a property. Proposals for designation must be accompanied by information with respect to the special historical, community or aesthetic interest or value of the HPD or HP. The Commission may establish from time to time such procedures and policies with respect to designations and other matters described in this Chapter. Moreover, the Commission shall, where appropriate, issue specific Unique Historic Guidelines to govern any such designated HPD or HP. The purpose of such guidelines are to assist the Architectural Board of Review to limit its judgment and review procedures to design and engineering issues, rather than its own independent view of historic appropriateness, which are hereby expressly left in the province of the Commission with the advice of the Heritage Advisory Board.

(c) Considerations for Designation: In considering the designation of any area, place, building, structure, work of art or other object in the *City* as a HPD or HP, the Commission shall apply the following criteria with respect to each property. One (1) or more of the following must apply:

- (1) The character, interest or value as part of the heritage of the *City*, the region, State of Ohio or the United States;
- (2) The location as a site of a significant historic event;
- (3) The identification with a person or persons who significantly contributed to the historic development of the *City*;
- (4) An HPD's or HP's exemplification of the cultural, economic, social, archeological, or historic heritage of the *City*;
- (5) The portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
- (6) The embodiment of distinguishing historical characteristics of a group of people in an era of history characterized by a distinctive architectural style;
- (7) HPD's or HP's identification as the work of an architect or master builder whose individual work has influenced the development of the *City*;
- (8) HPD's or HP's embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural or technological innovation;
- (9) HPD's or HP's unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the *City*, itself at large;
- (10) HPD's or HP's having yielded or its likelihood of yielding information important to the understanding of pre-history or history.

(d) Additional Considerations for an HPD: In addition to meeting at least one (1) of the above criteria, a proposed HPD must also meet the following criteria in order to be designated a HPD:

- (1) The area within the proposed boundaries must have a high degree of historic integrity, without excessive loss of architectural or historic character.
- (2) The area within the proposed boundaries must have an internal historic cohesiveness in the sense of a shared common history of its inhabitants, historical development according to the *Vision*, a shared architectural style or design, or a body of architecture illustrating the evolution of architectural styles over a period of time.

(e) Additional Considerations for an HP: In addition to meeting at least one (1) of the criteria listed in subsection (c) above, a proposed HP must also meet the following criteria in order to be designated a HP:

- (1) The structure(s) must have a high degree of historic integrity, without excessive loss of architectural or historic character.
- (2) The structure(s) must have an internal historic cohesiveness in the sense of a shared common history of its inhabitants, historical development according to the *Vision*, a shared architectural style or design, or a body of architecture illustrating the evolution of architectural styles over a period of time.

(f) Designation by the Commission: The Commission after obtaining advice from the Heritage Advisory Board may designate certain areas, places, sites, buildings and structures as eligible to become either a HPD or a HP.

(g) Designation Not Self-Executing: Once the Commission has designated any certain areas, places, sites, buildings and structures as eligible to become either an HPD or an HP, an individual or group may apply to the Commission for official status as an HPD or HP. The rules of this Chapter, or the Unique Historic Guidelines adopted by the Commission for any HPD or HP, are not effective until the following application and approval process is additionally completed.

(h) Application for Historic Status Determination: The applicant(s) shall attempt to secure the written consent of the property owner(s) for the determination of a property as a HP. However, written approval is not required for the property to be determined as an HP. In the event that such owner refuses or declines to or otherwise does not give written consent to the proposed determination as a HP, upon the applicant's application the Commission shall schedule a public hearing on the question of the proposed determination. In regards to a HPD, the applicant(s) shall attempt to secure the written approval of owner(s) within the proposed boundaries. These signatures shall be presented on a form prepared by the Commission. However, written approval is not required for the properties to be determined as within a HPD. In the event that such owner(s) refuses or declines to or otherwise does not give written consent to the proposed determination as a HPD, upon the applicant(s)'s application the Commission shall schedule a public hearing on the question of the proposed determination.

(i) Notice Procedures for Public Hearing:

- (1) Notice of the public hearing shall be made in accordance with Lakewood Codified Ordinances no less than seven (7) days before the hearing; said notice shall state the time, place and purpose of the hearing in accordance with Chapter 107 (Publication of Legal Notices) of the Ordinances.
- (2) No less than seven days prior to a public hearing, the Commission additionally shall give written notice of a public hearing, stating the time, place and purpose to all owners and residents of property in and within 200 feet of the property for which either an HPD or an HP designation is requested.

(j) The Commission shall give due consideration to the advice of the Heritage Advisory Board, such consents to determination and comments as have been filed with it, and the views as may have been expressed by persons participating in the hearing before the Commission, as well as any other relevant information brought before the Commission, in making its decision with respect to the proposed determination of each HPD or HP by a majority vote of its members.

(k) The application for historic determination shall be studied by the Commission for its review and recommendation. The Commission may determine said area, place, site, building(s), and structure(s), as a HPD or HP by majority vote. Regardless of any current National Register of Historic Places status, a HPD or HP must be locally determined by the Commission for this Chapter to apply.

(l) The Commission may approve by majority vote specific architectural guidelines for a created district or a specific historic property. The Commission shall schedule a public hearing on the question of proposed design guidelines. If specific architectural guidelines are not created, the Secretary of the Interior's Standards for Rehabilitation shall apply to a HD for Architectural Board of Review purposes.

(m) Applications, which have been denied by the Commission, may be resubmitted within ten (10) days, if a request is made in writing by the applicant, setting forth the grounds thereof. If the Commission determines by vote that valid grounds have been submitted, a rehearing shall be granted. If the request is not made within ten (10) days from date of ruling, no application on the same appeal may be made to the Commission for a period of six (6) months from the date the original application was denied. The filing of an application for a rehearing shall not be deemed to extend the time permitted by law for the filing of an appeal to the Courts. (Ord. 105-07. Passed 5-19-08.)

1134.04 LOCATION OF AN HPD OR HP.

Location of a HPD or HP is limited to the C1 Commercial Office, C2 Commercial Retail, C3 Commercial General Business, C4 Commercial Public School Districts, R1H Single-Family, High Density, R1M Single-family, Medium Density, R1L Single-family, Low Density, R2 Single-and Two-family, L Lagoon, MH Multiple-family, High Density and ML Multiple-family, Low Density, Residential Districts. (Ord. 105-07. Passed 5-19-08.)

1134.05 PERMITTED ACCESSORY USES.

Permitted accessory uses in an HPD shall be those uses listed as accessory in the underlying base zone. (Ord. 105-07. Passed 5-19-08.)

1134.06 PROCEDURES FOR THE REVIEW OF PROPOSED ALTERATIONS, DEMOLITION AND NEW CONSTRUCTION AND FOR ISSUANCE OF APPROVAL TO PROCEED WITH WORK (CERTIFICATE OF APPROPRIATENESS).

(a) No person shall make any alteration or demolition with respect to any property that is situated in a determined HPD or has been determined an HP unless a Certificate of Appropriateness has been previously issued with respect to such property. With respect to any such alteration or demolition, the owner of a property shall first apply for and secure a Certificate of Appropriateness from the Architectural Board of Review. In addition, any improvements or changes undertaken within public rights-of-way within an HPD also require a Certificate of Appropriateness from the Architectural Board of Review.

(b) Unless the Commission has previously approved Unique Historic Guidelines when considering an application for a Certificate of Appropriateness, the Architectural Board of Review shall determine whether the proposed construction, reconstruction, alteration or demolition is appropriate or whether it has an adverse affect upon the purposes of this Chapter and shall refer to the Secretary of the Interior's Standards for Rehabilitation, as amended from time to time, and which on the date of the adoption of this Chapter are as follows:

- (1) A property shall be used for its historic purpose or placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- (3) Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize an HP shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to the historic materials, structures, if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and environment would be unimpaired.

(c) In the case of archeological properties, the Architectural Board of Review shall refer to the Advisory Council on Historic Preservation's Treatment of Archeological Properties: A Handbook or successor publication(s).

(d) Approval Not Self-executing Where the Commission has Issued Unique Historic Guidelines: If the proposed construction, reconstruction, alteration or demolition is determined to have no adverse effect on the HPD or the HP, and does not violate the spirit and purpose of these preservation regulations, then the Architectural Board of Review shall approve the Certificate of Appropriateness, subject to a final additional review by the Commission, whenever Unique Historic Guidelines have been established.

(e) Denial: If the Architectural Board of Review determines that the proposed construction, reconstruction, alteration or demolition will have an adverse effect on the HPD or HP and does violate the spirit and purpose of these preservation regulations, then the Architectural Review Board shall deny the Certificate of Appropriateness.

(f) Notice of Denial to Applicant: In the event that the Architectural Board of Review denies an application for a Certificate of Appropriateness, the Secretary of the Architectural Board of Review shall forthwith notify the applicant of such determination in writing and transmit to him/her a copy of the reasons for denial and recommendations, if any, of the Architectural Board of Review.

(g) Effect of Denial: Upon denying an application for a Certificate of Appropriateness, the Architectural Board of Review shall impose a waiting period to not exceed thirty (30) days from the date of disapproval during which the applicant may develop a compromise proposal. With respect to an application involving a demolition, the Architectural Board of Review may, at its discretion, extend the aforementioned waiting period to not exceed one (1) year from the date of disapproval. If both parties accept a compromise proposal, the Architectural Board of Review may henceforth approve a final Certificate of Appropriateness, unless Unique Historic Guidelines have been adopted by the Commission and pertain, in which case any compromise must also be approved by the Commission.

(h) Negotiations During Waiting Period for Demolition: In the Case of a Denial of an Application for a Certificate of Appropriateness for Demolition:

- (1) The Architectural Board of Review, along with the Director, Commissioner, members of the Heritage Advisory Board, and other officials of the City as needed, may participate in negotiations with the owner or owners and any other interested party in an effort to find a means of preserving the property. If the aforementioned do not agree on a means of preserving the property at the initial meeting then they may continue to undertake meaningful and continuing discussion with the purpose of finding a method of saving the property.
- (2) If the applicant fails to meet with any or all of the aforementioned in good faith, in the time specified, then the Architectural Board of Review's denial of the application will stand.
- (3) If, after holding such good-faith meetings in the waiting period as specified above, the Director determines in writing that failure to approve an application for a Certificate of Appropriateness will create a substantial hardship to the applicant and that such certificate may be approved without substantial detriment to the public welfare and without substantial derogation from the purposes of this Chapter, therein in such event, the Architectural Board of Review shall approve a Certificate of Appropriateness for such proposed demolition.

(i) Negotiations During Waiting Period for Alteration: In the case of denial of an application for a Certificate of Appropriateness for construction, reconstruction or alteration:

- (1) The Architectural Board of Review, along with the Director, Commissioner, members of the Heritage Advisory Board, and other officials of the City as needed, may participate in negotiations with the owner or owners and any other interested party in an effort to find a means of preserving the historic integrity of the property. The aforementioned shall investigate the feasibility of all means of preserving the historic integrity of the designated property. If the aforementioned do not agree on a means of preserving the historic integrity of the property at the initial meeting, then they may continue to undertake meaningful and continuing discussion of the purpose of finding a method of saving the historic integrity of the property.
- (2) If the applicant fails to meet with the aforementioned in good faith, in the time specified, then the Architectural Board of Review's denial of the application will stand.
- (3) If, after holding such good faith meetings in the waiting period specified by the Architectural Board of Review, the Director determines in writing that failure to approve a Certificate of Appropriateness will create a substantial hardship to the applicant and that such certificate may be approved without substantial detriment to the public welfare and without substantial derogation from the purposes of this Chapter, therein in such event, the Architectural Board of Review can approve a Certificate of Appropriateness for such proposed demolition.

(j) Alternative Summary Procedures Not Requiring Board or Commission Action: The Director, or his/her designee, may administratively approve an application for a Certificate of Appropriateness for the following activities:

- (1) Repair or replacement of gutters and downspouts, provided there is no change in material or location.
- (2) Exterior wall insulation provided the exterior holes are repaired with a matching material. For vinyl or aluminum siding, the necessary siding shall be removed prior to the work and then reinstalled. Insulation work that requires venting of any type that appears on the exterior of a structure requires a Certificate of Appropriateness.
- (3) Re-roofing, only with like material and if the original style and shape of the roof is not altered.
- (4) Storm windows and storm doors, provided that the item(s) installed:
 - A. Do not significantly alter the visual effect of the opening;
 - B. Is/are compatible with the character of the building;
 - C. Does not require the removal of original windows and/or doors.
- (5) Repair of the surface of driveways, parking or loading areas or walkways with like material.

(k) Summary Procedures Report: The Director shall provide to the Architectural Board of Review a summary of the Certificates of Appropriateness for each administrative approval issued.

(l) As long as the repair or maintenance does not represent a material alteration to the structure, the following activities are approved within a HPD or HP;

- (1) Exterior painting; and
- (2) Landscaping improvements, referring only to the planting or arrangement of trees, shrubs, flowers and plants.

(m) If no action has been taken by the Architectural Review Board or the Director, or his/her designee, on an application for a Certificate of Appropriateness within sixty (60) days after such application has been received by the Architectural Review Board, the Certificate of Appropriateness shall be deemed issued.
(Ord. 105-07. Passed 5-19-08.)

1134.07 ECONOMIC HARDSHIP; APPLICATION FILED AFTER DENIAL OF A CERTIFICATE OF APPROPRIATENESS.

(a) An applicant who has been denied a Certificate of Appropriateness may, within thirty (30) days of the denial, apply for a Certificate of Economic Hardship. The application shall be made on a form prepared by the Commission. The Commission may hold a public hearing on the hardship application.

(b) All of the following criteria shall be considered to determine the existence of an economic hardship:

- (1) Denial of a Certificate will result in a substantial reduction in the economic value of the property.
- (2) Denial of a certificate will result in a substantial economic burden on the applicant because the applicant cannot reasonably maintain the property in its current form.
- (3) No reasonable alternative exists consistent with the architectural standards and guidelines for the property.
- (4) The owner has been unable to sell the property utilizing best efforts.
- (5) Previous alterations have interfered with the architectural character of the building and the character-defining features to illustrate the style or type are lost and to return the structure to its original character is not reasonable.
- (6) If the owner is a not-for-profit organization, and it is financially or physically infeasible to achieve its charitable purpose while conforming to the pertinent architectural standards and guidelines.
- (7) A court of competent jurisdiction has required the owner to abate any violation of these Ordinances within a time frame that does not comport with the requirements of this Chapter.

(c) In considering granting a Certificate of Economic Hardship, the Commission may solicit expert testimony or request that the applicant for a Certificate of Economic Hardship submit evidence concerning property value, cost estimates, income expenses, and/or any other information that the Commission deems necessary to determine whether the denial of the application constitutes an economic hardship. The level of documentation required may vary as is appropriate to each case. The Applicant may submit any personal or proprietary information to the Staff of the *City* for a confidential review, and such information shall be returned to the Applicant, and a summary or evaluation of the information shall be provided to the Commission without disclosure of the specific personal or proprietary information.

(d) The Commission shall act upon an application of Certificate of Economic Hardship within a period not to exceed six (6) months from the original date of the denial of a Certificate of Appropriateness. If no action has been taken by the Commission within this six (6) month period, the application shall be deemed granted, unless the time is extended upon by mutual agreement. Upon the denial of an application, the applicant shall be notified by mail. (Ord. 105-07. Passed 5-19-08.)

1134.08 DEMOLITION OR REMOVAL OF STRUCTURES IN AN HPD OR AN HP.

(a) Demolition or removal of a principal structure on a commercial property(s) in a designated HPD or HP shall comply with the regulations set forth within this Chapter and those in Section 1133.08.

(b) Demolition or removal of a principal structure on a residential property(s) in a designated HPD or HP shall comply with the regulations set forth within this Chapter and those in Section 1133.09. (Ord. 105-07. Passed 5-19-08.)

1134.09 RESCISSION OF A DESIGNATION OR DETERMINATION.

Notwithstanding any provision of this Chapter to the contrary, the Commission may rescind the designation or determination of any area, place, building, or structure, work of art or other object as a HPD or HP by majority vote by finding that the designated HPD or HD does not meet the designation criteria or to protect the public interest in response to changed circumstances since the designation decision was made. This rescission act of the Commission shall relieve the owner of such property from any duties or penalties. (Ord. 105-07. Passed 5-19-08.)

1134.10 EXCLUSIONS.

(a) If the forthwith demolition of a structure is required by an action authorized by the Public Safety Director of the *City* to protect the public health or safety, said action shall take precedence over the provisions of this Chapter.

(b) Nothing in this Chapter shall be construed to prevent the correction of any deterioration or damage to an area, place, building, structure, work of art or other object and restoration to its condition prior to such deterioration or damage. (Ord. 105-07. Passed 5-19-08.)

1134.11 FEES.

The fees for a HPD or HP application for a Certificate of Appropriateness shall be pursuant to Section 1173.06. (Ord. 105-07. Passed 5-19-08.)

1134.12 AFFIRMATIVE MAINTENANCE.

Every owner, operator, or agent of any property which has been determined HPD or HP shall keep in good repair all of the exterior portions and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portion of such area, place, building, or structure, work of art or other object to deteriorate, decay or become damaged or otherwise fall into a state of disrepair. Every owner, operator or agent of any property which has been determined HPD or HP shall further keep in good repair all portions of any area, place, building, or structure, work of art or other object which, if not so maintained, may cause or tend to cause such portions to deteriorate, decay, or become damaged or otherwise fall into a state of disrepair.

- (a) The repair and maintenance required by this section includes, without limitation:
 - (1) Developing and implementing a maintenance and monitoring plan for protecting each portion of any area, place, building, or structure, work of art or other object.
 - (2) Structurally stabilizing each Improvement and Improvement parcel by taking all steps necessary to ensure:
 - A. The roof is watertight;
 - B. Gutters are properly pitched and cleared of debris;
 - C. Downspout joints are intact;
 - D. Drains are unobstructed;
 - E. Windows and door frames and wood siding are in good condition;
 - F. Masonry walls are properly tuck-pointed to keep out moisture;
 - G. The Improvement parcel is graded for proper water run-off;
 - H. Vegetation is cleared from around each Improvement; and
 - I. Trash, debris and hazardous materials such as inflammable liquids, poisons and paints are removed from the interior of each one (1) of any area, place, building, or structure, work of art or other object on a continuous basis.
 - (3) Exterminating or controlling pests, including termites and rodents.
- (b) Protecting of any area, place, building, or structure, work of art or other object from moisture penetration.
 - (1) Securing each vacant area, place, building, structure, work of art or other object from vandalism and break-ins including, without limitation:
 - A. First floor windows and doors must be secured;
 - B. Plywood must be painted black or if the structure is composed of brick, a color compatible with the color of the brick;
 - C. The method used to install the plywood may not result in the destruction of the opening covered and all sashes, doors and frames must be protected or stored for future use;
 - D. Battery-operated intrusion alarms must be installed on the first floor of each portion of any area, place, building, or structure, work of art or other object;
 - E. Battery-operated smoke alarms must be installed on all floors of any area, place, building, or structure, work of art or other object;
 - F. Adequate security lighting must be installed on each portion of any area, place, building, or structure, work of art or other object and adequate security lighting or fencing or both must also be installed on each Improvement parcel where deemed necessary by the Commissioner.

- (2) Providing adequate ventilation to the interior of each vacant portion of any area, place, building, or structure, work of art or other object.
- (3) Securing or modifying utilities and mechanical systems for each portion of any area, place, building, or structure, work of art or other object.
- (4) Taking such other steps deemed necessary by the Commissioner.
(Ord. 105-07. Passed 5-19-08.)

1134.13 PENALTY.

Any person violating the provisions of this Chapter shall be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) for each offense, and a separate offense is deemed committed each day during which an offense continues.
(Ord. 105-07. Passed 5-19-08.)

1134.14 SEVERABILITY.

Should any provision of this Chapter be declared by the courts 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. 105-07. Passed 5-19-08.)

CHAPTER 1135
Mixed Use Overlay District

<p>1135.01 Purpose.</p> <p>1135.02 Limitations on flexibility of Mixed Use Overlay Districts.</p> <p>1135.03 Designation of a Mixed Use Overlay District.</p> <p>1135.04 Location of a Mixed Use Overlay District.</p> <p>1135.05 Principal and conditionally permitted uses.</p>	<p>1135.06 Accessory uses and structure.</p> <p>1135.07 Additional uses.</p> <p>1135.08 Minimum lot area, width, coverage and height.</p> <p>1135.09 Minimum yards.</p> <p>1135.10 Fees.</p>
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CROSS REFERENCES

Multiple-Family Residential District - see P.& Z. Ch. 1127
 Commercial Districts - see P.& Z. Ch. 1129
 Conditional uses - see P.& Z. Ch. 1161
 Fees - see P.& Z. 1173.06

1135.01 PURPOSE.

(a) The purpose of the Mixed Use Overlay District is to provide a mechanism to accommodate development reuse and redevelopment in specified locations, which is in the public interest and may not otherwise be permitted pursuant to this *Code*. A Mixed Use Overlay District may overlay several base districts. However, the uses permitted in each underlying district are limited to the boundaries of that district, and the regulations of the underlying district shall govern, except where additional uses are expressly allowed under this Chapter.

(b) The Mixed Use Overlay District requirements and regulations allow for more flexibility than those pertaining to other uses within the *Code*. A Mixed Use Overlay District may be mapped in an area where the proposed use changes certain character and features otherwise limited by the underlying zoning only if it has been determined that the current and anticipated future uses in the immediate vicinity will be compatible with the mixed uses proposed and that such uses are consistent with the Development Plan. Therefore, the Commission shall consider Mixed Use Overlay developments on a case-by-case basis.

(c) A Mixed Use Overlay District should offer one (1) or more of the following advantages:

- (1) Designs in residential and commercial areas that reflect the City's development and planning policies as set forth in this *Code* and that are consistent with the *Vision*.
- (2) Designs that are intended to encourage flexibility, innovation, and creativity in site and development design by allowing the mixing of permitted uses and/or modification or variation from otherwise applicable zone district and development standards.
- (3) Designs which encourage a mix of retail, service, office, housing, live-work units, and public activities to coexist in a manner that reflects human scale and emphasizes pedestrian orientation, taking advantage of the vitality that mixed uses can bring to the community.
- (4) Designs which provide substantial buffers and transitions between areas of different land uses and development densities.
- (5) Designs which enhance the appearance of neighborhoods by conserving areas of natural beauty and natural green spaces.
- (6) Designs which provide a choice in the type of environment available to the public by allowing development that would not be possible under the strict application of other sections of this *Code*.
- (7) Development and/or permanent reservation of open space, recreational areas and facilities.
- (8) A creative approach to the use of land and related physical facilities that result in better urban design, higher quality construction and the provision of aesthetic amenities.
- (9) The efficient use of land, so as to promote certain economies in the provision of utilities, streets, schools, public grounds and buildings, and other facilities.
(Ord. 59-04. Passed 7-6-04.)

1135.02 LIMITATIONS ON FLEXIBILITY OF MIXED USE OVERLAY DISTRICTS.

It is not intended that the Commission automatically grant exceptions or maximum density increases for Mixed Use Overlay Districts, but it is expected that the Commission shall grant only such increases or uses which are consistent with the benefits resulting from the Mixed Use Overlay. Therefore, the Commission may require as a condition of approval any reasonable condition, limitation or design factor, pursuant to Section 1161.02, General Standards for All Conditional Uses, which will promote proper development of a Mixed Use Overlay development. (Ord. 59-04. Passed 7-6-04.)

1135.03 DESIGNATION OF A MIXED USE OVERLAY DISTRICT.

(a) Relationship to Base Districts. The Mixed Use Overlay District is an overlay zone, which may be applied to existing zoning districts as described in Section 1135.04, Location of Mixed Use Overlay District. When such a district is established, the Mixed Use Overlay District shall be shown as an overlay to the underlying districts by the designation of MUOD (Mixed Use Overlay District) on the Zoning Map. A MUOD may overlay several base districts, however, the uses permitted in each base district are limited to the boundaries of that base district, except as otherwise provided herein.

(b) Development Standards. The development standards, including, but not limited to, the yard and setback requirements, the height limitations, parking requirements, open space areas, and signage shall be established as a function of the application to establish a Mixed Use Overlay District and the approval of the application.
(Ord. 59-04. Passed 7-6-04.)

1135.04 LOCATION OF MIXED USE OVERLAY DISTRICT.

Location of a Mixed Use Overlay District is limited to C1 Office, C2 Retail, C3 General Business, C4 Public School District or the MH, Multiple-Family, High Density Residential District.
(Ord. 88-04. Passed 11-1-04.)

1135.05 PRINCIPAL AND CONDITIONALLY PERMITTED USES.

(a) Permitted Uses. Uses listed as permitted in the underlying “base” zone.

(b) Conditional Uses.

- (1) Conditional Uses are those uses having some special impact or uniqueness that requires a careful review of their location, design, configuration, and special impact to determine the desirability of permitting their establishment on any given site. A Conditional Use may be granted pursuant to the requirements of Section 1129.02, Principal and Conditional Permitted Uses. Standards for specific Conditional Uses may be found in Chapter 1161, Conditional Uses, or elsewhere as referenced herein.
- (2) In keeping with the desire for flexibility in this district, the following may be permitted as additional Conditional Uses in the Mixed Use Overlay District:
 - A. Dwelling units, single-family residence attached.
 - B. Live-work units where base zoning permits non-residential uses.
 - C. Uses listed as conditional in the underlying base zone.
- (3) Modification of development standards shall be permitted on the authority of the Commission as part of the Conditional Use review.
(Ord. 59-04. Passed 7-6-04.)

1135.06 ACCESSORY USES AND STRUCTURES.

Uses listed as accessory in the underlying “base” zone.
(Ord. 59-04. Passed 7-6-04.)

1135.07 ADDITIONAL USES.

Uses listed as additional in the underlying “base” zone.
(Ord. 59-04. Passed 7-6-04.)

1135.08 MINIMUM LOT AREA, WIDTH, COVERAGE, AND HEIGHT.

Standards related to minimum lot area, lot width, lot coverage and maximum heights shall be as required in the base zone for each lot. However, such standards may be relaxed without triggering the requirement to apply for a variance if the proposed standard is determined by the Commission to be consistent with the surrounding properties, both within and outside of limits of the Mixed Used Overlay District.
(Ord. 59-04. Passed 7-6-04.)

1135.09 MINIMUM YARDS.

In addition to the required yard, a landscaped buffer of at least ten (10) feet shall also be provided, pursuant to Section 1141.03, Landscaping Plan. However, the Commission may relax such standards if the proposed standard is determined to be consistent with the surrounding properties, both within and outside the limits of the Mixed Use Overlay District.
(Ord. 59-04. Passed 7-6-04.)

1135.10 FEES.

The fee(s) for a MUOD application shall be pursuant to Section 1173.06.
(Ord. 59-04. Passed 7-6-04.)

TITLE FIVE - SUPPLEMENTAL REGULATIONS

- Chap. 1141. Landscaping and Screening.
- Chap. 1143. Off-Street Parking.
- Chap. 1145. Home Occupations.
- Chap. 1147. Recreational Equipment and Other Vehicles.
- Chap. 1149. Non-Conformities.
- Chap. 1151. Signs in Residential Districts.
- Chap. 1153. Fences.
- Chap. 1155. Subdivision Regulations.
- Chap. 1156. Planned Development.
- Chap. 1157. Antennas.
- Chap. 1159. Wireless Telecommunication Facilities.
- Chap. 1160. Wind Energy Facility.
- Chap. 1161. Conditional Uses.
- Chap. 1163. Sexually Oriented Businesses.

CHAPTER 1141 Landscaping and Screening

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| 1141.01 Purpose. | 1141.03 Landscaping plan. |
| 1141.02 Required locations and exceptions. | 1141.04 Landscaping and screening materials. |

CROSS REFERENCES

- Mixed Use Overlay District - see P.& Z. Ch. 1135
- Planned Development - see P.& Z. Ch. 1156
- Wireless telecommunication facilities - see P.& Z. 1159.05(e)
- Sexually oriented businesses - see P.& Z. 1163.05(a)
- Architectural Board of Review - see BLDG. Ch. 1325

1141.01 PURPOSE.

Landscaping and screening regulations are established to:

- (a) Protect residential and other environments from adverse effects -- such as noise, odors, and dust -- of more intensive adjacent uses;
- (b) Protect users of parking areas from excessive wind, glare, and temperature extremes;

- (c) Mitigate the adverse effects on public streets and adjacent properties of noise, blowing dust and debris, and glare from motor vehicle headlights and parking area lighting;
- (d) Discourage unsafe access to and circulation in parking areas;
- (e) Contribute to improved community appearance and property values and preserve and enhance the established character of **Lakewood** neighborhoods;
- (f) Preserve privacy in residential areas next to non-residential uses and discourage trespass onto such residential properties;
- (g) Provide trees and shrubbery that improve the urban environment by cooling the air and land, reducing carbon dioxide in the air, and producing oxygen;
- (h) Compensate for the inability, in a densely developed city like **Lakewood**, to buffer incompatible uses by use of wide yards and open spaces.
(Ord. 91-95. Passed 10-7-96.)

1141.02 REQUIRED LOCATIONS AND EXCEPTIONS.

(a) Any multi-family, commercial, or industrial use located on a lot having a rear or side lot line abutting a residential use, or a rear or side lot line abutting a public right-of-way, shall install landscaping and screening along such lot line(s), consistent with this Chapter.

(b) Exceptions:

- (1) Screening on abutting lot: No landscaping or screening shall be required along a lot line where adequate landscaping or screening exists along such lot line on the abutting lot(s). If such existing screening is lawfully discontinued, screening on the subject lot consistent with the purposes herein shall be installed within sixty (60) days of the discontinuation.
- (2) Below-grade areas: The height of landscaping or screening along a lot line that abuts a below-grade parking or loading area may be reduced by the amount of the difference in grade between the parking or loading area and the grade at the lot line. Such difference in grade shall be the difference between the highest point of the finished grade of the parking or loading area and the mean average of the lot within four (4) feet of the lot line.
- (3) Shared driveway: No landscaping or screening shall be required along that portion of a lot line along which there is a driveway or vehicular circulation aisle that is shared with an abutting lot.
- (4) Building walls: A blank building wall (no doors, windows, or other openings), or roof exhausts less than ten (10) feet from a property line along a lot line shall qualify as screening for purposes of this Chapter if its location is legally non-conforming or is permitted pursuant to this **Code**.
- (5) Line of sight hazard: Landscaping and screening shall not create a sight hazard, as determined by the **City** Traffic Engineer.
(Ord. 91-95. Passed 10-7-96.)

1141.03 LANDSCAPING PLAN.

(a) For any use required to provide landscaping and screening, a landscaping plan shall be filed with an application for:

- (1) Any rezoning (map amendment);
- (2) Any conditional use;

- (3) Any variance which must be approved by the Board;
- (4) Any lot split or consolidation;
- (5) Any building permit for a project which must be reviewed by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code; or
(Ord. 91-95. Passed 10-7-96.)
- (6) Any wireless telecommunication facility pursuant to subsection 1159.05(e);
(Ord. 24-98. Passed 5-18-98.)
- (7) Any Sexually Oriented Business pursuant to subsection 1163.05(a);
(Ord. 91-95. Passed 10-7-96.)
- (8) Any Mixed Use Overlay District pursuant to Section 1135.09;
- (9) Any Planned Development pursuant to subsection 1156.05(f).
(Ord. 61-04. Passed 7-6-04.)

(b) It shall be the duty of the Architectural Board of Review to review the landscape plan to determine whether said plan is consistent with the purposes of this Chapter. The Architectural Board of Review may approve a landscape plan, which it finds to be consistent with the purposes of this Chapter.
(Ord. 91-95. Passed 10-7-96.)

1141.04 LANDSCAPING AND SCREENING MATERIALS.

- (a) Screening, approved by the Architectural Board of Review, may take the form of:
- (1) A landscaped earthen berm a minimum of two (2) feet high plus plantings a minimum of two (2) feet high (a total of four [4] feet high) at all points;
 - (2) A concrete or masonry wall;
 - (3) A wood, wrought iron, tubular steel, or similar fence compatible with the character of the area in which the fence is to be placed;
 - (4) A compact hedge or other live evergreen vegetative barrier; or
 - (5) A combination thereof.

Fences and walls used to meet screening requirements shall display a finished face toward adjacent streets and properties.

- (b) All varieties of living landscape materials used shall be:
- (1) Healthy, hardy, and drought-resistant consistent with the availability of water for artificial irrigation; and
 - (2) Suitable for the climate and environmental influences on the site, such as exposure to sun, wind, water, heat, automobile exhaust fumes, and road salt; and
 - (3) Compatible with the slope of the site, with existing vegetation to be preserved and with utility lines above or below ground level; and
 - (4) Not prone to cause a nuisance within the public right-of-way as a result of dropping fruit or debris other than leaves; and
 - (5) Protected from pedestrian or vehicular traffic by grates, pavers, or other measures, where vulnerable to damage.

(c) Grass or other ground cover shall be planted over all landscaped strips including earthen faces of berms -- except in areas planted in flowers, shrubs, or trees -- so as to present a finished appearance and reasonably complete coverage within three (3) months after planting.

Non-living landscaping materials such as sand, stones, rocks, or barks may be substituted for living cover on strips which are six (6) feet or less in width and may cover a maximum of thirty percent (30%) of the landscaped area in other instances. No artificial plants or artificial turf shall be used.

(Ord. 91-95. Passed 10-7-96.)

**CHAPTER 1143
Off-Street Parking**

1143.01 Purpose.	1143.07 Variance.
1143.02 General provisions.	1143.08 Complementary uses.
1143.03 Determination of required off-street parking spaces.	1143.09 Unlicensed, immobilized vehicles.
1143.04 Use categories.	1143.10 Applicability.
1143.05 Schedule of uses and space requirements.	1143.11 Parking lot design.
1143.06 Off-street loading spaces required.	

CROSS REFERENCES

State regulations - see Ohio R.C. 4501.01
 Wireless Telecommunication facilities - see P.& Z. 1159.05(l)
 Sexually oriented businesses - see P.& Z. 1163.06
 Mixed Use Overlay District - see P.& Z. Ch. 1135
 Planned Development - see P.& Z. Ch. 1156
 Parking design - see BLDG. 1325.08

1143.01 PURPOSE.

Off-street parking regulations are established in order to protect residential neighborhoods from on-street parking; to promote the general convenience, welfare and prosperity of commercial development; and to relieve congestion so the streets can be utilized more fully for movement of vehicular traffic.

(Ord. 91-95. Passed 10-7-96.)

1143.02 GENERAL PROVISIONS.

(a) For every building hereafter erected or expanded, or where the use is changed or enlarged, there shall be provided off-street parking and loading areas as set forth in this Chapter.

(b) No permits shall be issued for any building, improvement or use of land, including, but not limited to, building permits and certificates of occupancy, until a plot plan is submitted to the Commissioner showing such off-street parking and loading spaces as is hereunder required. Such plan shall be prepared at a reasonable scale, showing property lines, the dimensions of the property, the size and arrangement of all parking and loading spaces, the means of ingress and egress to such parking and loading spaces from the street and interior circulation within the property, the extent of any change required in existing site conditions to provide required parking and loading spaces and such other conditions as may be necessary to permit review and approval of the proposed parking and loading spaces.

(c) Off-street, on-site parking spaces for all uses as required by this Chapter shall be designed and maintained in accordance with applicable sections of these Ordinances so as to be safe, attractive and free of hazard, nuisance or other unsafe condition, and be used for exclusive use of the tenants, occupants and customers of the buildings or uses on said site.

(d) All parking spaces and off-street spaces shall be provided in accordance with this Chapter and shall be provided on the same lot as the principal use to which it is accessory.

(e) Unenclosed parking spaces shall not be used for repair of a motor vehicle.

(f) Parking for all motor vehicles shall be on an improved surface of concrete or asphalt or other materials approved by the Board of Building Standards.
(Ord. 91-95. Passed 10-7-96.)

1143.03 DETERMINATION OF REQUIRED OFF-STREET PARKING SPACES.

(a) Where floor area is designed as the standard for determining parking space requirements, floor area shall be computed on the gross floor area (GFA), in square feet, of all floors of the building, including the exterior walls.

(b) Where seating capacity is the standard, employees shall mean the regular working staff, (paid, volunteer or otherwise) at maximum strength/per shift and in full-time equivalent numbers necessary to operate, maintain or service any given facility or use under normal levels of service.

(c) The number of parking spaces required will be computed to the next largest number.

(d) In the case of mixed uses or more uses as listed in Section 1143.04, the total parking spaces shall be equal to the requirements of various uses computed separately.

(e) Cumulative parking requirements for mixed-use occupancies may be reduced upon review and approval by the Commissioner where it can be determined that the peak requirement of the several occupancies occurs at different times (either daily or seasonally).
(Ord. 91-95. Passed 10-7-96.)

1143.04 USE CATEGORIES.

For the purposes of calculating parking and loading requirements, uses are defined as follows:

(a) Cultural/Recreational and Entertainment:

- (1) Public assembly; including art galleries, auditoriums, community and recreational centers, convention rooms, ballrooms, meeting rooms and exhibit halls, libraries, museums, movie and performing arts centers, stadiums and arenas, funeral homes, churches, synagogues and mosques, outdoor theaters/festival/drama, and mausoleums.
- (2) Public recreation; including bowling alleys, gymnasiums, health clubs, roller and ice skating rinks, tennis, racquetball, swimming and other recreational facilities.

- (3) Educational; including grade and secondary schools, colleges, special education facilities, trade schools, adult education facilities or testing/research facilities used for or in conjunction with educational purposes, and including dance and karate studios.
- (b) Food and Beverage Services:
- (1) Quality restaurant; including restaurants, lounges, and bars with or without dancing and entertainment facilities, which provide only seated table service.
 - (2) Family restaurant; without a bar or lounge area which provides food delivered to tables or dining counters, and only incidental carry out service.
 - (3) Fast food; including delicatessen, drive-in, etc., which provides quickly or previously prepared food to a service counter; the patron carries the food out or to an indoor or outdoor seating area.
 - (4) Carry out; which provides quickly or previously prepared food to a service counter; the patron carries the food off premises for consumption.
- (c) Governmental: including Federal, State, County, Township and Municipal buildings of all types and facilities used by public or quasi-public agencies that serve or assist the public or provide an accepted public purpose.
- (d) Industrial: including manufacturing processing, assembly, and/or packaging plants of all types.
- (e) Office and Business Services:
- (1) General business offices; including, but not limited to, accounting, advertising, architectural/engineering/urban planning, bookkeeping, business and management consulting, charitable, consumer protection, corporate credit reporting, data processing, detective services, interior decorating (without furniture showrooms), legal offices, newspaper and newspaper distribution, philanthropic or professional membership business associations, publishing houses (without printing plants), public relations, religious services, research labs, stenographic services, syndicate offices, title abstracting, travel agencies and window cleaning services.
 - (2) Financial services offices; including, but not limited to, collection services, commodity or security broker/dealer, currency exchange, employment agencies, employment services, financial institutions including banks, savings and loans, credit unions, with or without drive-in facilities, financial counseling, income tax preparation, insurance agencies and brokers/service offices, loan companies, labor unions, and real estate offices.
- (f) Medical Offices:
- (1) Including, but not limited to, dentists, physicians, chiropractors, psychiatrist/psychologist, nonresidential psychiatric, alcoholic and narcotic treatment centers, dental and medical laboratories, medical clinics and outpatient surgery/treatment centers, offices for the fitting and repair of hearing aids and prosthetic appliances, and massotherapy.

- (g) Home Occupation Offices:
- (1) Including such services, provided solely by the owner or tenant, as accounting, insurance, public relations, tax preparation, legal, stenographic, planning and design and similar activities.
- (h) Residential Uses:
- (1) Single-family structures; including detached houses and duplexes, townhouses, and clustered dwelling units that may be attached but have separate entrances and/or parking areas for each unit or common parking areas servicing two (2) or more units.
 - (2) Multi-family structures; including condominium and apartment buildings with common entranceways and/or parking areas for two (2) or more dwelling units.
 - (3) Elderly housing; including any multi-family dwelling occupied ninety percent (90%) or more by persons sixty (60) years of age or older.
 - (4) Sleeping rooms; including boarding, lodging, bed and breakfast homes, rectories and convents, and rooms that are rented or used on an individual basis by non-family members.
 - (5) Commercial lodging; including hotels, motels, motor lodges and motor courts.
 - (6) Group/convalescent/nursing homes and assisted living; where unrelated persons reside under supervision for special care, treatment, training or other purposes on a temporary or permanent basis.
 - (7) Day-care centers; where unrelated persons are cared for during limited periods each day in a supervised facility.
 - (8) Hospitals; including teaching and specialized medical centers, sanitariums, and residential alcoholic, psychiatric and narcotic treatment facilities that provide for temporary or long-term resident patient care.
- (i) Retail/Service Uses:
- (1) General retail; including generally the sale of items such as antiques, art, art supplies, bicycles, books, camera and photographic supplies, china and glassware, clothing, coin merchandising, drapery/curtain/window coverings, dry goods, fabric and sewing accessories, floor coverings, furriers and fur apparel, gift/novelty/souvenirs, hobby, jewelry, linens/sheets/towels, leather/luggage/suitcases, musical instruments, optical shops, newspapers and magazines, retail florist (non greenhouse), paint and wall coverings, pet shops, records/audio/stereo/TV, school and office supplies, second hand and resale, shoes, small electrical appliances, specialty, stationary, tobacco, and toys.
 - (2) Convenience retail; including bakeries and confectioneries (non-manufacturing), butchers/ meat shops, dairy products, eggs and poultry, fish and seafood, fruit grocery/superstores/supermarkets/liquor, laundry/dry cleaning (pickup station only), pharmacy, drug, film/video rentals.

- (3) Service retail; including drapery services, direct selling, appliance repair, tool and appliance rentals, mail order, merchandise vending, printing/copy, shoe repair, pawn shops, photographic studios, tailoring and dressmaking, upholstery.
 - (4) Hard goods retail; including automotive parts and supplies (without repair facilities), furniture, key and lock, hardware, wholesale florists, garden supply, greenhouse, nurseries, truck gardens and orchards, lumber and building supplies, household appliances, lighting and electrical supplies, pool and patio furniture, and sales display and showrooms for any building product (including millwork, cabinets, plumbing, glass and mirror, fencing, swimming pools/spas/hot tubs, etc.).
 - (5) Shopping centers; with two (2) or more individual stores, provided in the same building or attached buildings, and gross leaseable area (GLA) totaling more than 10,000 square feet.
 - (6) Personal care services; including barber and beauty shops, cosmetology and cosmetic salons, diet counseling centers, electrolysis/hair removal salons, fingernail salons, tanning salons.
 - (7) Coin operated laundry and coin operated dry cleaning facilities; with or without attendant services and/or a pickup station for outside dry cleaning service.
 - (8) Other retail/service uses; including animal clinics/hospitals/veterinarian offices, kennels/pounds and grooming services.
 - (9) Motor vehicle sales and service; including automotive sales, gasoline and/or diesel fuel stations, automotive rental agency, marine craft sales and service, engine and motor repair shops, automotive glass/muffler/painting/tire/upholstery/repair shops, recreational and sports vehicle sales and service, or any combination thereof.
 - (10) Car wash/motor vehicle detailing facilities; including facilities for washing, waxing and cleaning of vehicles and vehicle components but expressly prohibiting facilities or equipment for the repair, overhaul or storage of motor vehicles or vehicle components.
- (j) Storage/Wholesale/Utility:
- (1) Including, but not limited to, mini warehouse with secured, individual storage units, which are leased for a fee to individual companies or persons.
- (k) Wireless Telecommunication Facilities: pursuant to Section 1159.05(l).
(Ord. 24-98. Passed 5-18-98.)
- (l) Sexually Oriented Businesses: pursuant to Section 1163.06.
(Ord. 91-95. Passed 10-7-96.)
- (m) Mixed Use Overlay District: pursuant to Section 1135.03(b).
- (n) Planned Development: pursuant to Section 1156.05(e).
(Ord. 61-04. Passed 7-6-04.)

1143.05 SCHEDULE OF USES AND SPACE REQUIREMENTS.

The required number of off-street parking and loading spaces for a use category described in Section 1143.04 shall be as set forth in Schedule 1143.05 following this Chapter.

The Commissioner is hereby authorized to determine the required off-street parking and loading requirements for uses not specifically listed in this Ordinance, based on the most similar use(s) that are listed. Such determination by the Commissioner shall be in writing and shall be appealable to the Board.

(Ord. 91-95. Passed 10-7-96.)

1143.06 OFF-STREET LOADING SPACES REQUIRED.

The location of off-street loading spaces shall be regulated according to the following:

- (a) Streets, sidewalks, alleys or other public rights-of-way or other public property shall not be used for loading purposes nor shall vehicles be parked on such areas during loading and unloading.
- (b) No part of any required yard, off-street parking area, or access drive thereto, shall be used for loading or unloading purposes.

(Ord. 91-95. Passed 10-7-96.)

1143.07 VARIANCE.

The Commissioner may grant a variance to the off-street parking requirements if it can be established that there is an equivalent number of unused parking spaces available in a parking lot or an acceptable alternative within 300 feet, utilizing sidewalks, from the use in question.

Wherever any required off-street parking is provided elsewhere than on the lot or parcel of land on which the principal use to be served is located, a written agreement thereby assuring the retention of such parking shall be properly drawn and executed by the parties concerned, approved as to form by the Law Department, and filed with the application for a variance under this Section.

(Ord. 91-95. Passed 10-7-96.)

1143.08 COMPLEMENTARY USES.

Up to ten percent (10%) of the floor area (calculated as required by the standard for the principal use) in the same building or attached buildings may be occupied by other complementary uses without providing parking spaces in addition to that imposed by the application of the ratio for the principal use.

Examples of complementary uses include a pharmacy in a hospital or medical office building, "food courts" or restaurant within a principal shopping center building, and retail or restaurant tenants in an office building so long as the total space occupied by complementary tenancies does not exceed ten percent (10%) of the appropriate GFA of any building or facility.

(Ord. 91-95. Passed 10-7-96.)

1143.09 UNLICENSED, IMMOBILIZED VEHICLES.

No person shall store or permit to be stored, for a period of more than three (3) consecutive days, any motor vehicles not having current year license plates and/or damaged or immobilized so as to render it incapable of being moved under its own power, upon any lot or land designated as within any district, unless the same shall be in a completely enclosed building or garage. "Motor Vehicle" shall have the same meaning as in O.R.C. 4501.01. This Section shall not apply to motor vehicle sales lots.

(Ord. 91-95. Passed 10-7-96.)

1143.10 APPLICABILITY.

The Commissioner shall enforce the provisions of Chapter 1143, or such other persons as the Commissioner may designate, when a parking lot is constructed, expanded, enlarged, or altered.

(Ord. 91-95. Passed 10-7-96.)

1143.11 PARKING LOT DESIGN.

Parking lots in the Multiple-Family, Low Density Districts (ML), and Multiple-Family High Density Districts (MH); Commercial Districts, C1 Office, C2 Retail, C3 General Business, C4 Public School, and the Industrial (I) District, are regulated pursuant to Section 1325.08 of the Building Code.

(Ord. 24-98. Passed 5-18-98.)

SCHEDULE 1143.05: PARKING USES AND SPACE REQUIREMENTS			
USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED	OTHER REQUIREMENTS
RESIDENTIAL			
Single-, Two-, Three-Family	2/Dwelling Unit	None	One (1) required space shall be in a garage. The front yard shall not be used for off-street parking except in the Lagoon District.
Type B Home Occupation	3	None	In addition to requirement for residential use.
Bed & Breakfast	1/Guest Room	None	In addition to requirement for residential use.
Multi-Family Studio 1 Bedroom 2+ Bedrooms	1.5/Dwelling Unit	None	One (1) required space shall be assigned to each dwelling unit. One (1) required space shall be in a garage. The front yard shall not be used for off-street parking.
Multi-Family Bedrooms Added to Existing	1/Bedroom	None	One (1) required space shall be added for each two (2) occupancy increases or fraction thereof.
Sleeping Rooms	1/Roomer	None	
Commercial Lodging	1/Room plus .25/Employee	1/100 Units or fraction thereof	
Elderly Housing	.25/Dwelling Unit	One (1)	
Group/Nursing/Convalescent/Assisted Living Home	1/Employee plus .25/Bed or .25/Dwelling Unit	One (1)	
Day Care	.25/Infant, Toddler, Child	None	
RETAIL SERVICE			
General Retail	2.5/1,000 sq. ft. GFA*	None	
Convenience	4/1,000 sq. ft. GFA	None	
Service	2.5/1,000 sq. ft. GFA	None	
Hard Goods	2.5/1,000 sq. ft. GFA	None	
Shopping Center	4/1,000 sq. ft. GFA	1/25,000 sq. ft.	
Personal Care Service	1.5/Station	None	

SCHEDULE 1143.05: PARKING USES AND SPACE REQUIREMENTS (Cont.)			
USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED	OTHER REQUIREMENTS
RETAIL SERVICE (Cont.)			
Coin Operated Laundries	1/4 Machines	None	
Other Retail/Service	2.5/1,000 sq.ft. GFA + .5/Employee	None	
Motor Vehicle Sales and Service	1/Employee +2/Bay 2.5/1,000 sq.ft. GFA 2 Stacking Spaces/ Gas Pump Island	1/25,000 sq. ft.	
Car Wash	1/Employee +2 Stacking Spaces/ Bay	None	
FOOD AND BEVERAGE			
Quality Restaurant	.25/Seat	None	
Family Restaurant	.25/Seat	None	
Fast Food	.25/Seat provided +10 Stacking Spaces/ Drive-thru Window	None	
Carry Out	2.5/1,000 sq. ft. GFA	None	
Bars/Taverns	.25/Seat	None	One (1) required space for every twelve (12) square feet of designated standing area
OFFICE AND BUSINESS SERVICES			
General Business	3.5/1,000 sq. ft. GFA	None	
Financial Services	3.5/1,000 sq. ft. GFA 5 Stacking Spaces/ ATM or Teller Window	None	
Medical Offices	4/Doctor	None	
STORAGE/WAREHOUSE			
Mini Warehouse	1/Storage Unit +2	None	
INDUSTRIAL			
Any use described in Section 1131.02	.5/Employee	1/25,000 sq. ft. up to 50,000 sq. ft. GFA; +1/ next 50,000 sq. ft. +1/100,000 sq. ft. thereafter	

* (GFA) Gross Floor Area, see Section 1143.03

SCHEDULE 1143.05: PARKING USES AND SPACE REQUIREMENTS (Cont.)			
USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED	OTHER REQUIREMENTS
WIRELESS TELECOMMUNICATION FACILITIES			
Any use described in Section 1159.05(l)	1/Facility		
EDUCATION			
Elementary and Secondary Schools	1/Classroom or .25/Seat in Assembly Hall ; 2/Student + 1/Staff + .33/Seat in Stadium or Assembly Hall, whichever is greater	None	
High School, College, Trade School	.2/Student + 1/Staff + .33/Seat in Stadium or Assembly Hall, whichever is greater	None	
Dance/Karate Studio	.33/Student	None	
CULTURAL/RECREATIONAL/ENTERTAINMENT			
Public Assembly	.33/Seat	None	
Church	.33/Seat	None	
Funeral Homes	1/50 sq. ft. GFA* Parlor/ Service Rooms	None	
Public Recreation	10/1,000 sq. ft. Recreation Area	None	
Bowling Alley	2/Alley	None	
Skating Rinks	10/1,000 sq. ft. Activity Area	None	

* (GFA) Gross Floor Area, see Section 1143.03

(Ord. 91-95. Passed 10-7-96; Ord. 24-98. Passed 5-18-98.)

**CHAPTER 1145
Home Occupations**

1145.01 Definitions.
1145.02 Regulations.

1145.03 Additional regulations for
Type B home occupations.
1145.04 Boutiques.

CROSS REFERENCES

Off-street parking table of uses and space requirements - see P.& Z. Schedule 1143.05
Home occupation, Type B - see P.& Z. 1161.03(f)
Fees - see P.& Z. 1173.06

1145.01 DEFINITIONS.

(a) **TYPE A HOME OCCUPATION** means a home occupation as an accessory use where the home is used by those residing therein as a place of work; no customers or non-resident employees come to the home.

(b) **TYPE B HOME OCCUPATION** means a home occupation as an accessory use where the home is used by those residing therein as a place of work, and where one (1) non-resident employee and customers come to the home.

(c) **BOUTIQUE** means a temporary home occupation wherein customers purchase crafts and other similar goods made on the premises by the person(s) living within the dwelling unit. See Section 1145.04.
(Ord. 91-95. Passed 10-7-96.)

1145.02 REGULATIONS.

(a) The home occupation shall occupy no more than fifteen percent (15%) of the habitable floor area of the dwelling, as defined in the Building Code.

(b) No sign or display advertising the presence of the home occupation and visible from the public right-of-way shall be permitted.

(c) The home occupation shall be conducted entirely within the principal structure.

(d) The home occupation shall not interfere with the off-street parking required for the principal use pursuant to Chapter 1143.

(e) The home occupation shall not necessitate any structural alteration, any alteration to an elevation of the structure, or the installation of additional parking surfaces.

- (f) The home occupation shall not necessitate any variance to the Building Code.
- (g) The home occupation shall not generate any noise, fumes, dust, odors, or electrical interference, which may be transmitted outside the dwelling unit.
- (h) Goods shall not be displayed to or picked up by the customer at the site of the home occupation.
(Ord. 91-95. Passed 10-7-96.)

1145.03 ADDITIONAL REGULATIONS FOR TYPE B HOME OCCUPATIONS.

In addition to the regulations in Section 1145.02, a Type B Home Occupation may be permitted as a conditional use pursuant to Section 1161.03(f).
(Ord. 91-95. Passed 10-7-96.)

1145.04 BOUTIQUES.

(a) Permits Required:

- (1) No Boutique shall operate without a valid permit issued by the Commissioner; the fee for said permit shall be as set forth in the fee schedule established pursuant to Section 1173.06.
- (2) No permit shall be issued pursuant to this Chapter to any person not a resident of the dwelling unit for which the permit is issued; a tenant applying for a permit pursuant to this Section shall provide a letter signed by the property owner allowing such accessory use.
- (3) No more than one (1) permit per calendar year shall be issued pursuant to this Chapter for any dwelling unit.

(b) Regulations:

- (1) No person shall operate a Boutique for more than three (3) consecutive days.
- (2) No person shall operate a Boutique other than between the hours of 9:00 a.m. and 9:00 p.m. Monday through Friday, and 12:00 noon and 6:00 p.m. Saturday and Sunday.
(Ord. 91-95. Passed 10-7-96.)

CHAPTER 1147
Recreational Equipment and Other Vehicles

1147.01 Definitions.**1147.02 Regulations.**

CROSS REFERENCES

State regulations - see Ohio R.C. 4503.45, 4503.181

1147.01 DEFINITIONS.

As used in this Chapter, “recreational equipment and other vehicles” shall include but is not limited to the following:

- (a) **TRAVEL TRAILER**, a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a travel trailer by the manufacturer;
- (b) **PICK-UP CAMPER**, a structure designed primarily to be mounted on a pick-up or truck chassis and with sufficient equipment to render it as suitable for use as a temporary dwelling for travel, recreational and vacation uses;
- (c) **MOTOR HOME**, a portable dwelling designed and constructed as an integral part of a self-propelled vehicle;
- (d) **FOLDING TENT TRAILER**, a folding structure mounted on wheels and designed for travel and vacation use;
- (e) **BOATS and BOAT TRAILERS**, including but not limited to jet ski’s and rafts, plus the normal equipment to transport same on a public roadway;
- (f) **ANTIQUE MOTOR VEHICLE**, including “collector’s vehicles” licensed pursuant to O.R.C. 4503.45 and “historical motor vehicles” licensed pursuant to O.R.C. 4503.181;
- (g) **LICENSED PRIVATE TRAILER** designed and intended to haul personal property;
- (h) **OTHER RECREATIONAL EQUIPMENT**, including but not limited to snowmobiles, parade floats, and other such equipment as determined by the Commissioner.
(Ord. 91-95. Passed 10-7-96.)

1147.02 REGULATIONS.

No person shall park or store, or permit to be parked or stored, recreational equipment upon any lot or land within any zoning district except as hereinafter provided.

- (a) Recreational equipment or other vehicle(s) greater than thirty (30) feet in length shall not be parked or stored on any lot or land within any district except inside a garage or other building.

- (b) Recreational equipment and other vehicle(s) shall not have fixed connections to electricity, water, gas or sanitary sewer facilities, and at no time shall such equipment be used as a dwelling unit, or for storage or housekeeping purposes in the *City*.
- (c) If the recreational equipment or other vehicle(s) is parked or stored outside of a garage, it shall be parked or stored in the rear yard of the principal building, on an improved parking surface, except for the purpose of loading and unloading for a period not to exceed thirty-six (36) consecutive hours; parking recreational equipment in a front or side yard area shall not be deemed a permitted accessory use.
- (d) All recreational equipment and other vehicle(s) must be kept in good repair and, where applicable, carry a current year's license plate and registration.
- (e) No person shall make or cause to be made major repairs, alterations or conversions of any motor vehicle(s), recreational equipment or other vehicle(s) unless such repair, alteration or conversion is done in a completely enclosed garage. "Repairs of a major type" is herein defined to include, but is not limited to, spray painting, body, fender, clutch, transmission, differential, axle, plumbing, heating, spring and frame repairs, radiator repair, major overhauling of engines requiring the removal of engine cylinder head or crankcase pan or removing the motor, and conversion of any other type of motor vehicle(s) to recreational equipment or other vehicle(s) as herein defined.
(Ord. 91-95. Passed 10-7-96.)
- (f) Recreation equipment not in excess of thirty-one (31) feet in length may be stored in the rear yard only, on an improved parking surface, on property where the owner is living.
(Ord. 24-98. Passed 5-18-98.)

**CHAPTER 1149
Non-Conformities**

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| <p>1149.01 Purpose.</p> <p>1149.02 Non-conforming use of land (or land with minor structures).</p> <p>1149.03 Non-conforming use of structures or structures and land in combination.</p> | <p>1149.04 Non-conforming structures.</p> <p>1149.05 Non-conforming lots.</p> <p>1149.06 Repairs and maintenance.</p> |
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CROSS REFERENCES

- Single-Family Residential Districts - see P.& Z. Ch. 1121
 Landscaping and screening - see P.& Z. Ch. 1141
 Procedures for variances - see P.& Z. 1173.04

1149.01 PURPOSE.

Within the districts established by this *Code* or amendments that may later be adopted there exists lots, structures, and uses of land and structures which were lawful prior to adoption of this *Code* but which would be prohibited, regulated, or restricted under the terms of this *Code* or amendments thereto. The legitimate interests of those who lawfully establish these non-conformities are herein recognized by providing for their continuance, subject to regulations limiting their completion, restoration, reconstruction, extension, and substitution. Nevertheless, while it is the intent of this *Code* that such non-conformities be allowed to continue until removed, they should not be encouraged to survive. Nothing in this Chapter shall require any change in the plans, construction, or designated use of a building or accessory structure or use for which a valid building permit has been issued prior to the effective date of adoption or amendment of this *Code* if construction has been diligently started within six (6) months of the date of the permit and the entire structure is completed according to the plans on file with the Commissioner within two (2) years of the date of the permit.
 (Ord. 91-95. Passed 10-7-96.)

1149.02 NON-CONFORMING USE OF LAND (OR LAND WITH MINOR STRUCTURES).

Where at the time of adoption of this *Code* lawful use of land exists which would not be permitted by the regulations imposed by the *Code*, and where such use involves no individual structures with replacement cost exceeding \$3,000.00, the use may be continued so long as it remains otherwise lawful, provided:

- (a) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this *Code*.

- (b) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this *Code*.
- (c) If any such non-conforming use of land ceases for any reason for a period of six (6) months, any subsequent use of such land shall conform to the regulations specified by this *Code* for the district in which such land is located.
- (d) No additional structure not conforming to the requirements of this *Code* shall be erected in connection with such non-conforming use of land.
(Ord. 91-95. Passed 10-7-96.)

1149.03 NON-CONFORMING USE OF STRUCTURES OR STRUCTURES AND LAND IN COMBINATION.

If lawful use involving individual structures with a replacement cost of \$3,000.00 or more, or of structures and land in combination, exists at the effective date of adoption or amendment of this *Code* that would not be allowed in the district under the terms of this *Code*, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) The Commission may, at public hearing and following the notice procedures for use variance(s) set forth in Section 1173.04, authorize the expansion of a non-conforming structure or use a maximum of 2,000 square feet or up to twenty percent (20%) of the existing floor area, whichever is greater, where the Commission finds:
 - (1) That side and rear yards a minimum of ten (10) feet wide/deep will be maintained along lot lines abutting conforming uses; the Commission may require larger side or rear yards where necessary to effectively insulate abutting conforming uses from the non-conforming use.
 - (2) That landscaping and screening, approved by the Architectural Board of Review pursuant to Chapter 1141, will be provided.
 - (3) That expansion of the non-conforming use will not have a substantial negative impact on the surrounding area; when determining whether the expansion will have a substantial negative impact, the Commission may consider, but is not limited to, the following:
 - A. Traffic patterns and generation, including on-site loading and unloading areas;
 - B. Parking;
 - C. Lighting;
 - D. Whether there will be a substantial increase in the generation of noise, vibrations, or fumes; and
 - E. Existing public services.

When considering whether to authorize the expansion, the Commission may consider any other factors it deems relevant.

- (b) Any non-conforming use may be extended throughout any part of a building, which was manifestly arranged or designed for such use at the time of adoption, or amendment of this *Code*, but no such use shall be extended to occupy any land outside such building.
- (c) If no structural alterations are made, any non-conforming use of a structure or structure and land may, as a conditional use, be changed to another non-conforming use provided the Commission makes the following findings:

- (1) That the proposed use is more appropriate and compatible with the neighborhood than the existing use;
- (2) That there will be reduction in traffic if the existing use created a traffic problem.

In permitting such change the Commission may require appropriate conditions and safeguards that it deems necessary to protect and improve the neighborhood.

- (d) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to all of the regulations for the district, and the non-conforming use shall not thereafter be resumed.
- (e) When a non-conforming use of a structure, or structure and land in combination, is discontinued or abandoned intentionally or otherwise for a period of six (6) consecutive months (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- (f) A non-conforming structure or use more than fifty percent (50%) destroyed or removed by whatever means shall not be restored or replaced except by a conforming structure or use.
(Ord. 91-95. Passed 10-7-96.)

1149.04 NON-CONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this *Code* that could not be built under the terms of this *Code* by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, provided that no such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.

- (a) Such non-conforming structure or non-conforming portions of a structure more than fifty percent (50%) destroyed or removed by whatever means shall not be restored or replaced except by a conforming structure or use.
- (b) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
(Ord. 91-95. Passed 10-7-96.)

1149.05 NON-CONFORMING LOTS.

(a) Where any single non-conforming lot in a residential district which existed prior to adoption of this *Code* is in separate ownership and not of continuous frontage with other lots in the same ownership:

- (1) A single-family dwelling and other accessory structures permitted under Chapter 1121 may be constructed on such lot.
- (2) This subsection (a) shall apply even though such lot fails to meet the requirements for area and/or frontage that are generally applicable to the district; requirements of Chapter 1121, other than those applying to area and/or frontage, shall apply to such lot.
- (3) Variances to requirements other than lot area or frontage shall be obtained pursuant to the procedures set forth in Section 1173.04.

(b) Where two (2) more lots or any combination of lots and portions of lots with continuous frontage are in single ownership, and such lots do not meet the area or frontage requirements of the district in which they are located, such lots shall be considered a single zoning lot for purposes of this *Code*.

- (1) No portion of such zoning lot shall be used or sold in a manner, which diminishes compliance with the area or width requirements for the district in which the zoning lot is located.
- (2) Re-subdivision of such zoning lot to create a lot, which does not meet the area or frontage requirements of this *Code*, is prohibited.
(Ord. 91-95. Passed 10-7-96.)

1149.06 REPAIRS AND MAINTENANCE.

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased. If a non-conforming structure or portion of a structure containing a non-conforming use is physically unsafe or unlawful due to lack of repairs and maintenance and is declared by the Commissioner to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located. This Section shall not apply to single- and two-family dwellings. Nothing in the *Code* shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof.

(Ord. 91-95. Passed 10-7-96.)

CHAPTER 1151
Signs in Residential Districts

1151.01 Definitions.
1151.02 Regulations.

1151.03 Exemptions.
1151.04 Wireless telecommunication facilities.

CROSS REFERENCES

Wireless telecommunication facilities - see P.& Z. Ch. 1159
Signs - see BLDG. Ch. 1329

1151.01 DEFINITIONS.

As used in this Section, “sign” means any display, figure, painting, drawing, placard, poster, or other device visible from or on a public way, which is designed, intended, or used to convey a message, inform, or direct attention to a person, institution, organization, activity, place, object, or product. “Sign” does not include flags, personal name plates or family names with a total area of one (1) square foot or less mounted on a decorative light pole or the dwelling, holiday decorations or displays, or premises information signs (e.g.: security systems, “beware of dog,” “keep off the grass,” block watch, etc.) with a total area of one (1) square foot or less. The sign may be a structure or part thereof, or painted on or attached directly or indirectly to a structure. (Ord. 91-95. Passed 10-7-96.)

1151.02 REGULATIONS.

(a) Commercial signs shall not be permitted in R1L, R1M, R1H, L, R2, ML, or MH Districts except where authorized elsewhere by these Ordinances; with the exception that a single, double-sided real estate sign not exceeding five (5) square feet of area per side advertising the property on which it is located for sale or rent shall be permitted.

(b) Non-commercial signs shall be permitted in R1L, R1M, R1H, L, R2, ML, or MH Districts, subject to the following regulations:

- (1) No sign shall exceed six (6) square feet in total area.
 - (2) No sign shall be displayed on any utility pole, or in any tree lawn or public right-of-way.
 - A. The Director of Public Works may remove any sign(s) posted on any utility pole, or in any tree lawn or public right-of-way.
 - B. The Director of Public Works may determine the cost of removal and assess such costs to the person(s), business, organization, or entity that posted the sign(s).
- (Ord. 91-95. Passed 10-7-96.)

1151.03 EXEMPTIONS.

This chapter does not apply to churches or schools existing as non-conforming uses in R1L, R1H, L, R2, ML, or MH Districts. Chapter 1329 of the Building Code shall govern signs on such premises.

(Ord. 91-95. Passed 10-7-96.)

1151.04 WIRELESS TELECOMMUNICATION FACILITIES.

As regulated by Sections 1159.05(i)(2) and 1159.05(j).

(Ord. 24-98. Passed 5-18-98.)

CHAPTER 1153
Fences

1153.01 Definitions.**1153.02 Regulations.**

CROSS REFERENCES

Planned Development - see P.& Z. 1156.05(k)
 Wireless telecommunication facilities - see P.& Z. 1159.05(i)(1)
 Administrative powers and duties - see P.& Z. Ch. 1171
 Procedures for variances - see P.& Z. Ch. 1173
 Architectural Board of Review - see BLDG. Ch. 1325
 American Institute of Architects' "Architectural Graphic Standards"

1153.01 DEFINITIONS.

(a) **FENCE** means an unroofed structure erected in such a manner and in such a location as to enclose, secure, partially enclose or secure, provide privacy for, decorate, define, or enhance all or any part of a lot.

(b) **LIVING FENCE** means a grouping of plants including, but not limited to, hedges, shrubs, bushes, or trees, arranged and/or growing in such a manner as to enclose, secure, partially enclose or secure, provide privacy for, decorate, define, or enhance all or any part of a lot. (Ord. 91-95. Passed 10-7-96.)

1153.02 REGULATIONS.

(a) No fence, or living fence greater than thirty-six (36) inches above grade, shall be erected, placed, or extended in front of the building line; however, fences may be permitted in front of the building line along a side or rear property line where a residential lot abuts a lot containing a non-residential use.

(b) On a corner lot, no fence, or living fence greater than thirty-six (36) inches above grade, shall be erected or placed on the side lot line adjacent to the side street and extending from the rear property line to the front building line or part thereof, except upon a determination by the Commissioner that such fence or living fence does not obstruct the view of vehicle or pedestrian traffic, or constitute a hazard. Said fence must be located a minimum of twelve (12) inches from the public right-of-way.

(c) Fences are permitted along a rear or side property line or portion of a rear or side property line provided that:

- (1) Fences less than or equal to seventy-two (72) inches above grade may be of any type, subject to subsection (g);
 - (2) Fences greater than seventy-two (72) inches above grade but less than or equal to ninety-six (96) inches above grade shall be constructed such that at least fifty percent (50%) of any lineal foot of such fence is open for the through passage of light and air;
 - (3) No fence shall exceed ninety-six (96) inches above grade.
- (d) A fence in front of the building line and parallel to the public right-of-way may be deemed a decorative fence, and is permitted, provided that:
- (1) The fence shall be less than or equal to forty-two (42) inches above grade; a pole less than or equal to ninety-six (96) inches above grade may be included in such fence where such pole is used for lighting, address or a combination of both;
 - (2) Total length of the fence shall not exceed fifty-five percent (55%) of the foundation wall fronting the public right-of-way;
 - (3) No portion of the fence shall be situated further than eight (8) feet from any part of the structure, excluding entry stairs and landings; no portion of the fence shall be less than ten (10) feet from the public right-of-way;
 - (4) Only wooden fences known as picket, slat, and split-rail shall be permitted as decorative fences;
 - (5) No gate shall be included in the fence.
 - (6) The Architectural Board of Review (ABR) is hereby authorized to grant approvals to this subsection (d), Chapters 1171 and 1173 notwithstanding, where it finds that strict enforcement would be contrary to the intent and purpose of this subsection.
 - A. The ABR is hereby authorized to approve any fence design depicted in the most recent edition of the *American Institute of Architects' "Architectural Graphic Standards"* that it deems decorative.
 - B. In its decisions, the ABR shall consider the development of adjacent, contiguous, and neighboring buildings and properties in order to achieve the purposes of the ABR, as set forth in Chapter 1325.
- (e) Fences and living fences on or immediately adjacent to a property line shall not be included in the calculation of total principal or accessory structure lot coverage.
- (f) Fences shall display a finished face toward adjacent streets and properties.
- (g) Barbed wire and/or razor fences:
- (1) Are prohibited in residential and commercial zoning districts;
 - (2) Are permitted in industrial zoning districts provided that such fences shall be of chain link construction topped with barb arms with no more than three (3) strands of barbed wire; said arms to be no less than seventy-two (72) inches and no more than ninety-six (96) inches above grade.
- (h) Fences enclosing swimming pools shall be permitted, pursuant to Section 1722.08.

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- (i) A fence shall be placed entirely within the property line of its respective parcel.
 - (j) A security fence as regulated by Section 1159.05(i)(1).
 - (k) Planned Development pursuant to Section 1156.05(k).
(Ord. 91-95. Passed 10-7-96 ; Ord. 24-98. Passed 5-18-98; Ord. 61-04. Passed 7-6-04; Ord. 124-05. Passed 2-6-06.)

CHAPTER 1155
Subdivision Regulations

<p>1155.01 Purpose.</p> <p>1155.02 Definitions.</p> <p>1155.03 General requirements.</p> <p>1155.04 Procedures for minor subdivisions.</p> <p>1155.05 Procedures for major subdivisions.</p>	<p>1155.06 Procedures for lot consolidations and resubdivision.</p> <p>1155.07 Procedures for lot splits.</p> <p>1155.08 Performance and maintenance bonds.</p>
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CROSS REFERENCES

Publication of legal notices - see ADM. Ch. 107
 Planning Commission - see P.& Z. 1171.03
 Fees - see P.& Z. 1173.06
 Ohio Administrative Code - see OAC Chapter 4733-37

1155.01 PURPOSE.

The Subdivision Regulations are intended to provide for the harmonious development of the *City*, ensuring that the subdivision of land occurs in accordance with the provisions of this *Code*.

(Ord. 91-95. Passed 10-7-96.)

1155.02 DEFINITIONS.

(a) **LOT, SUBLLOT, AND PARCEL** mean an area of land described in documents properly recorded in the records of the Cuyahoga County Recorder, bearing a unique permanent parcel number.

(b) **SUBDIVISION** means a division of any parcel of land shown as a unit or as contiguous units in the current records of the Cuyahoga County Recorder into two (2) or more lots, parcels, sites or other division of land, any one of which is five (5) acres or less, for the purpose, whether immediate or future, of transfer of ownership, including:

- (1) **MINOR SUBDIVISION** which means the division of a parcel of land along an existing public street not involving the opening, widening or extension of any road or street, and involving not more than five (5) proposed lots.
- (2) **MAJOR SUBDIVISION** which means the division of a parcel of land into two (2) or more lots when such subdivision involves the opening, widening or extension of any street, or any division of a parcel into more than five (5) lots.

(c) **RESUBDIVISION** means a reconfiguration of three (3) or more lots, which were previously established by recorded subdivision.

(d) **LOT CONSOLIDATION** means the joining together of two (2) or more existing lots or parcels to create a new single parcel.

(e) **LOT SPLIT** means the separation of part of an existing lot or parcel from the remainder.

(f) **LOT SPLIT AND CONSOLIDATION** means the reconfiguration of two (2) lots, which were previously established by recorded subdivision.
(Ord. 91-95. Passed 10-7-96.)

1155.03 GENERAL REQUIREMENTS.

(a) **Plat Drawing.** The plat drawing shall be prepared in accordance with Ohio Administrative Code Chapter 4733-37 (Minimum Standards for Boundary Surveys in the State of Ohio) by a professional surveyor registered in Ohio. It shall be drawn on polyester drafting film (mylar) with India ink to an appropriate scale. It shall be not smaller than eighteen (18) inches by twenty-four (24) inches or larger than twenty-four (24) inches by thirty-six (36) inches and shall contain the following:

- (1) Overall dimensions of the existing parcel(s) and the length and direction of each new lot line, street or easement.
- (2) Monuments set along the subdivision boundaries and street center line control points within the subdivision.
- (3) Sublot or parcel numbers/letters in progressive order, utilities and drainage easements and building lines.
- (4) Surveyor's certification and reproducible seal.
- (5) Permanent parcel number, owner's name and current deed volume and page for all adjoining parcels.
- (6) Owner's acceptance of plat and subdivision and (where necessary) statement offering dedication of streets, rights-of-way and any sites reserved by deed covenants for common use.
- (7) Approval clauses for Commission (Chairman and Secretary), Engineer and *City* Council (Clerk), where applicable.

(b) **Streets.** Location of streets shall conform to the *City's* general plan. If possible, streets shall be continuous. Where a continuous street is impracticable, a cul-de-sac with a minimum termination diameter of 120 feet is permitted.

- (1) Minimum street right-of-way width shall be sixty (60) feet.
- (2) Street pavement shall be at least twenty-five (25) feet wide, including curbs, with a minimum of a four (4) inch base and a surface of at least seven (7) inches of reinforced concrete.
- (3) Street intersections shall be at ninety (90) degrees where possible, but never less than sixty (60) degrees.
- (4) Reserve strips abutting proposed street shall not be permitted.

- (c) Sublots.
- (1) All sublots, parcels or blocks shall have access to a public street. Whenever practicable, side lot lines shall be straight lines perpendicular with the street or radial to a curved centerline.
 - (2) Minimum frontage, building setback and side yards shall be in accordance with the current zoning for the parcel(s) being subdivided.
 - A. Minimum frontage shall be determined at the building line, but in no case will the frontage at the right-of-way be less than twenty-five (25) feet.
 - B. Corner lots shall have a minimum street-side-yard of fifteen (15) feet.
 - (3) Lots and sublots may not be sold nor shall titles transfer until the City accepts the plat and it has been recorded.
- (d) Maps and Plans.
- (1) Location map shall show the locations of all peripheral streets and subdivisions and the classification of zoning and uses of areas contiguous to the project site.
 - (2) Preliminary plan shall show all existing streets and utilities, proposed street and lot lines, existing and proposed drainage ditches, existing structures and gas wells within the proposed subdivision and on all adjacent parcels.
 - (3) Improvement plan shall be prepared by a professional engineer registered in Ohio and shall be drawn with permanent ink on standard twenty-four (24) inch by thirty-six (36) inch plan and profile polyester drafting film (mylar) with a horizontal scale of one (1) inch equals fifty (50) feet and a vertical scale of one (1) inch equals five (5) feet. Benchmarks referenced to the Cleveland Regional Geodetic Survey datum shall be used and shown on the plans. Also included shall be the plan and profile of proposed pavement, storm and sanitary sewers, water mains, gas and electric lines, house connections and a typical section of the roadway showing underground installations and pavement and berm areas. Grades shall be shown at least at fifty (50) foot intervals. Vertical curves shall be used at all pavement grade changes.
 - (4) Site plan shall be a topographic map drawn to a scale of one (1) inch equals fifty (50) feet with a contour interval of one (1) foot and conforming to the Cleveland Regional Geodetic Survey datum. It shall show the proposed locations of houses on the lots, finished ground elevations at the house and subplot corners and the proposed lot drainage.
(Ord. 91-95. Passed 10-7-96.)

1155.04 PROCEDURES FOR MINOR SUBDIVISIONS.

(a) Application. A preliminary plan and plat complying with the requirements set forth in Section 1155.03 shall be prepared for each minor subdivision and submitted with an application for approval to the Director prior to the deadline established by the Commission by rule. The purposes of the preliminary plan are to determine if it qualifies as a minor subdivision, its relation to adjacent subdivisions, and compliance with other *City* codes.

(b) Review by Engineer. The Director shall submit the preliminary plan and plat to the Engineer for review and if it is satisfactory, the Engineer shall so certify the approval thereon.

(c) Approval. The Commission shall review all required maps and the report of the Engineer for compliance with the applicable sections of this Chapter and the *Code*. An approval notation shall be made on the preliminary plan and the plat by the Chairman and Secretary of the Commission.

- (1) If any proposed lot or parcel does not fully conform to the provisions of the *Code*, the Commission shall refer the application to the Board with the request that the Board determine whether the applicant should be entitled to a variance from strict compliance with the provisions of the *Code*, which the proposed subdivision violates. Upon review and the decision of the Board, the proposed subdivision shall be returned to the Commission for its final review and approval, disapproval or modification.
- (2) After approval by the Commission, the subdivision shall be submitted to *City* Council for approval at their next regular meeting. If Council concurs with the Commission and approves the subdivision, the Clerk of Council shall note such approval on the plat.
- (3) The Commission may disapprove the plan where it finds that the proposed use is not consistent with the *Vision*. Findings supporting such disapproval shall be stated on the record and forwarded to the applicant within fourteen (14) calendar days.

(d) Recording. The approved plat shall be filed and recorded in the offices of the County Auditor and County Recorder by an authorized representative of the *City* within thirty (30) days after final approval.

(e) Fees. A review and recording fee, established pursuant to Section 1173.06 shall be included with the application.
(Ord. 91-95. Passed 10-7-96.)

(f) Notice Procedures. Where a minor subdivision is requested, notice of the public hearing to be held pursuant to Section 1171.03(i) shall be made in a newspaper of general circulation no less than seven (7) days before the hearing; said notice shall state the time and place of the hearing in accordance with Chapter 107 (Publication of Legal Notices) of the Ordinances.
(Ord. 124-05. Passed 2-6-06.)

- (1) In addition, notice, indicating the time, place, and subject of the hearing, shall be sent by regular mail to the owners of:
 - A. All properties abutting the subject property;
 - B. All properties abutting such properties described in subparagraph (f)(1)A. herein, excepting properties located across the right-of-way from or behind said abutting properties;
 - C. Any other property the Director deems affected by the proposed subdivision.

- (2) Where a lot described in paragraph (f)(1) herein contains a condominium of more than ten (10) units, notice shall be sent to the president of the condominium association and the management company responsible for the building; the management company shall receive sufficient copies of the notice to post two (2) on every floor of the building at locations determined by the company.
(Ord. 24-98. Passed 5-18-98.)

1155.05 PROCEDURES FOR MAJOR SUBDIVISIONS.

(a) Application. A preliminary plan and location map complying with the requirements set forth in Section 1155.03 shall be prepared for each proposed major subdivision and submitted with an application for approval to the Director prior to the deadline established by the Commission by rule. The purposes of the preliminary plan are to determine the best design for the subdivision, its relationship to adjoining subdivisions or other uses and its compliance with the provisions of these Subdivision Regulations and the *Code*.

(b) Preliminary Approval.

- (1) The Director shall forward the preliminary plan to the Engineer, Commissioner, and Chiefs of Police and Fire for review; the comments and recommendations of said department's personnel shall be submitted to the Commission with the application.
- (2) The Commission shall notify by regular mail the applicant and all property owners within 500 feet of the proposed subdivision of the date and place of the meeting required by Section 1171.03(i).
- (3) The Commission shall, by record vote, approve or disapprove the preliminary plan as submitted or as modified to meet recommendations.
 - A. If the preliminary plan is approved, the applicant may proceed with improvement plans and the plat.
 - B. If the preliminary plan is disapproved, the action shall be final unless the applicant appeals the decision to City Council within ten (10) days.
 - C. The Commission may disapprove the plan where it finds that the proposed use is not consistent with the *Vision*; findings supporting such disapproval shall be stated on the record and forwarded to the applicant within fourteen (14) calendar days.

(c) Approval.

- (1) Improvement plans, a grading plan and the plat shall be submitted to the Director, Commissioner, and Engineer and shall be in conformance with the approved preliminary plan.
- (2) Where the Engineer approves the improvement plan and plat, and the Director and Commissioner find that the improvement plan complies with all other applicable sections of the *Code* and Ordinances, the improvement plan and plat shall be submitted to the Commission for review.
- (3) Upon approval by the Commission, evidenced by the signature of the Chairman and Secretary on the original plat, the improvement plan and plat shall be forwarded to Council along with the Commission's recommendation for approval. The Commission may disapprove the plan where it finds that the proposed use is not consistent with the *Vision*; findings supporting such disapproval shall be stated on the record and forwarded to the applicant within fourteen (14) calendar days.

- (4) Council shall approve or disapprove the plans and/or plat, either separately or concurrently, within forty-five (45) days.
- (5) When the improvement plans are approved:
 - A. The plat shall be recorded;
 - B. Applicable building permits may be issued;
 - C. Construction shall begin within sixty (60) days of issuance of the permits referred to in subparagraph (c)(5)B. herein; and
 - D. Lots may be sold, leased or transferred.

(d) Street Acceptance. Where streets are to be dedicated to public use, upon approval of all improvements by the Engineer, the developer shall file an abstract, certificate of title, guarantee of title or title insurance in the amount of at least \$1,000.00 with the Law Director showing the title to the street(s) in the subdivision to be good in the *City* for street purposes and to be free and clear of all encumbrances whatsoever. The plat shall then be presented to Council for acceptance and confirmation of the dedication of such street(s).

(e) Recording. The plat shall be filed and recorded in the offices of the County Auditor and County Recorder by an authorized representative of the *City* within thirty (30) days after final approval.

(f) Fees. A review and recording fee, established pursuant to Section 1173.06 shall be included with the application.
(Ord. 91-95. Passed 10-7-96.)

(g) Notice Procedures. Where a major subdivision is requested, notice of the public hearing held pursuant to Section 1171.03(i) shall be made in a newspaper of general circulation no less than seven (7) days before the hearing; said notice shall state the time and place of the hearing in accordance with Chapter 107 (Publication of Legal Notices) of the Ordinances.
(Ord. 124-05. Passed 2-6-06.)

- (1) In addition, notice, indicating the time, place, and subject of the hearing, shall be sent by regular mail to the owners of:
 - A. All properties abutting the subject property;
 - B. All properties abutting such properties described in subparagraph (g)(1)A. herein, excepting properties located across the right-of-way from or behind said abutting properties;
 - C. Any other property the Director deems affected by the proposed subdivision.
- (2) Where a lot described in paragraph (g)(1) herein contains a condominium of more than ten (10) units, notice shall be sent to the president of the condominium association and the management company responsible for the building; the management company shall receive sufficient copies of the notice to post two (2) on every floor of the building at locations determined by the company.
(Ord. 24-98. Passed 5-18-98.)

1155.06 PROCEDURES FOR LOT CONSOLIDATIONS AND RESUBDIVISIONS.

(a) Application. A preliminary plan and plat complying with the requirements set forth in Section 1155.03 shall be prepared for each lot consolidation or resubdivision and submitted with an application for approval to the Director, except, at the discretion of the Director, the preliminary plan may be waived, prior to the deadline established by the Commission by rule. The purposes of the preliminary plan are to determine if it qualifies as a lot consolidation or resubdivision, its relation to adjacent lot consolidations or resubdivisions, and compliance with other *City* codes.

(b) Review by Engineer. The Director shall submit the preliminary plan and plat to the Engineer for review and if it is satisfactory, the Engineer shall so certify the approval thereon.

(c) Approval. The Commission shall review all required maps and the report of the Engineer for compliance with the applicable sections of this Chapter and the *Code*. The Chairman and Secretary of the Commission shall make an approval notation on the preliminary plan and the plat.

- (1) If any proposed lot or parcel does not fully conform with the provisions of the *Code*, the Commission shall refer the application to the Board with the request that the Board determine whether the applicant should be entitled to a variance from strict compliance with the provisions of the *Code* which the proposed lot consolidation or resubdivision violates. Upon review and the decision of the Board, the proposed lot consolidation or resubdivision shall be returned to the Commission for its final review and approval, disapproval or modification.
- (2) The Commission may disapprove the plan where it finds that the proposed use is not consistent with the *Vision*; findings supporting such disapproval shall be stated on the record and forwarded to the applicant within fourteen (14) calendar days.
- (3) Upon approval by the Commission, the applicant has 180 days to provide a final plat to the Engineer. Failure to provide the aforementioned plat will cause the decision of the Commission to be null and void. The Commission for good cause may extend the aforesaid 180-day period.

(d) Recording. The approved plat shall be filed and recorded in the offices of the County Auditor and County Recorder by an authorized representative of the *City* with thirty (30) days after final approval.

(e) Fees. A review and recording fee, established pursuant to Section 1173.06 shall be included with the application.
(Ord. 24-98. Passed 5-18-98.)

(f) Notice Procedures. Where a lot consolidation or resubdivision is requested, notice of the public hearing held pursuant to Section 1171.03(i) shall be made in a newspaper of general circulation no less than seven (7) days before the hearing; said notice shall state the time and place of the hearing in accordance with Chapter 107 (Publication of Legal Notices) of the Ordinances.
(Ord. 124-05. Passed 2-6-06.)

- (1) In addition, notice, indicating the time, place, and subject of the hearing, shall be sent by regular mail to the owners of:

- A. All properties abutting the subject property;
 - B. All properties abutting such properties described in subparagraph (f)(1)A. herein, excepting properties located across the right-of-way from or behind said abutting properties;
 - C. Any other property the Director deems affected by the proposed lot consolidation or resubdivision.
- (2) Where a lot described in paragraph (f)(1) herein contains a condominium of more than ten (10) units, notice shall be sent to the president of the condominium association and the management company responsible for the building; the management company shall receive sufficient copies of the notice to post two (2) on every floor of the building at locations determined by the company.
(Ord. 24-98. Passed 5-18-98.)

1155.07 PROCEDURES FOR LOT SPLITS.

(a) Application. A lot split map based on field survey prepared by a professional surveyor registered in the State of Ohio showing existing structure(s) on the parcel(s) involved and the proposed lot line change shall be submitted to the Director prior to the deadline established by the Commission by rule.

(b) Review by Engineer. The Director shall submit the preliminary plan and plat to the Engineer for review and if it is satisfactory, the Engineer shall so certify the approval thereon.

(c) Approval. The Commission shall review all required maps and the report of the Engineer for compliance with the applicable sections of this Chapter and the *Code*. The Chairman and Secretary of the Commission shall make an approval notation on the preliminary plan and the plat.

- (1) If any proposed lot or parcel does not fully conform with the provisions of the *Code*, the Commission shall refer the application to the Board with the request that the Board determine whether the applicant should be entitled to a variance from strict compliance with the provisions of the *Code* which the proposed lot split violates. Upon review and the decision of the Board, the proposed lot split shall be returned to the Commission for its final review and approval, disapproval or modification.
- (2) The Commission may disapprove the plan where it finds that the proposed use is not consistent with the *Vision*; findings supporting such disapproval shall be stated on the record and forwarded to the applicant within fourteen (14) calendar days.
- (3) Upon approval by the Commission, the applicant has 180 days to provide a final plat to the Engineer. Failure to provide the aforementioned plat will cause the decision of the Commission to be null and void. The Commission for good cause may extend the aforesaid 180 day period.

(d) Recording. The approved plat shall be filed and recorded in the offices of the County Auditor and County Recorder by an authorized representative of the *City* with thirty (30) days after final approval.

(e) Fees. A review and recording fee, established pursuant to Section 1173.06 shall be included with the application.
(Ord. 24-98. Passed 5-18-98.)

(f) Notice Procedures. Where a lot split is requested, notice of the public hearing held pursuant to Section 1171.03(i) shall be made in a newspaper of general circulation no less than seven (7) days before the hearing; said notice shall state the time and place of the hearing in accordance with Chapter 107 (Publication of Legal Notices) of the Ordinances.
(Ord. 124-05. Passed 2-6-06.)

- (1) In addition, notice, indicating the time, place, and subject of the hearing, shall be sent by regular mail to the owners of:
 - A. All properties abutting the subject property;
 - B. All properties abutting such properties described in subparagraph (f)(1)A. herein, excepting properties located across the right-of-way from or behind said abutting properties;
 - C. Any other property the Director deems affected by the proposed lot split.
- (2) Where a lot described in paragraph (f)(1) herein contains a condominium of more than ten (10) units, notice shall be sent to the president of the condominium association and the management company responsible for the building; the management company shall receive sufficient copies of the notice to post two (2) on every floor of the building at locations determined by the company.
(Ord. 24-98. Passed 5-18-98.)

1155.08 PERFORMANCE AND MAINTENANCE BONDS.

(a) If improvements are not completed in a timely manner, or for cause, the Engineer may require a performance bond equal to the total cost of the improvements to be completed. Such bond shall set forth the *City* as the beneficiary and shall be issued by a reputable and solvent bonding company, licensed to do business in Ohio and shall be deposited with the Engineer and retained by the *City* until all improvements are constructed to the satisfaction of the Engineer

(b) After the improvements are completed, and accepted by the Engineer, the developer shall provide the *City* with a two (2) year maintenance bond of at least ten percent (10%) of the approved estimated cost of construction. The developer shall complete the construction or repairs of all improvements within two (2) years from the date of permission to proceed. Otherwise, the *City* shall have the right to use the performance bond money to complete the improvements. The aforesaid two (2) year period may be extended by Council for good cause.
(Ord. 91-95. Passed 10-7-96.)

**CHAPTER 1156
Planned Development**

1156.01 Purpose.	1156.05 Design principles.
1156.02 Location of Planned Developments.	1156.06 Deviations from other regulations.
1156.03 Standards for review of a preliminary PD plan.	1156.07 Performance and maintenance bonds.
1156.04 Planned Developments.	

CROSS REFERENCES

Publication of legal notices - see ADM. Ch. 107
 Noise control - see GEN. OFF. Ch. 515
 Single-Family Residential Districts - see P.& Z. Ch. 1121
 Single- and Two-Family Residential District - see P.& Z. Ch. 1123
 Multiple-Family Residential District - see P.& Z. Ch. 1127
 Commercial Districts - see P.& Z. Ch. 1129
 Off-street parking - see P.& Z. Ch. 1143
 Fences - see P.& Z. Ch. 1153
 Subdivision Regulations - see P.& Z. Ch. 1155
 Conditional uses - see P.& Z. Ch. 1161
 Administrative powers and duties - see P.& Z. Ch. 1171
 Procedures - see P.& Z. Ch. 1173
 Lighting - see BLDG. Ch. 1306
 Signs - see BLDG. Ch. 1329

1156.01 PURPOSE.

A Planned Development (PD) is meant to encourage more compact mixed use development, pedestrian-friendly site design, and an urban street character, in order to increase pedestrian traffic, reduce vehicular traffic, promote energy-efficient design, and accommodate a range of compatible land uses through appropriate site design. PD's are intended to permit a more flexible approach to land use control and to promote a variety of housing types developed among neighborhood-serving commercial uses and employment opportunities.

A PD encourages the development of compact, pedestrian-scaled, mixed-use neighborhoods and commercial centers while serving to provide greater efficiencies in use of infrastructure. It is intended to help advance revitalization initiatives along commercial corridors and recognize the market demand for new residential and commercial development within compact, pedestrian friendly districts. PD zoning is intended to work in conjunction with the proactive development of pocket parks, open spaces, and the creation of public spaces within the districts. PD zoning can support commercial corridor redevelopment plans and urban design guidelines or standards that require high quality development that is consistent with the *Vision*.

The PD specifically discourages those uses that: promote a strip center development pattern, promote idle land and over parking, and detract from the image enhancement intentions of this district. Planned Developments are intended to encourage orderly use, development and redevelopment of property, while allowing more flexibility and creativity in design to achieve high quality, integrated site planning not otherwise possible under the constraints of normal zoning requirements without detriment to adjacent/neighborhood properties.
(Ord. 60-04. Passed 7-6-04.)

1156.02 LOCATION OF PLANNED DEVELOPMENTS.

(a) A Planned Development may be permitted in a C1 Office, C2 Retail, C3 General Business District, C4 Public School District, or the MH Multiple-Family, High Density Residential District, on approval by the Commission and City Council in accordance with this Chapter 1156.

(Ord. 89-04. Passed 11-1-04.)

(b) For a commercial PD, at least fifty-one percent (51%) of the property or properties must be located in the C1 Office, C2 Retail, C3 General Business, C4 Public School District, or the MH Multiple-Family, High Density Residential District.

(c) The remaining forty-nine percent (49%) or less of the property may be located in an existing R1L, R1M, R1H, R2 and ML residential zoning district so long as such property abuts or is immediately adjacent to property as described in subsection (b) above and provided that the PD contains adequate buffers, setbacks and transition as noted elsewhere in this Chapter.

(d) All properties identified as being part of the PD shall be designated a PD on the *Zoning Map*. Grouping of uses permitted in other districts to create developments of compatible and mutually supportive activities is encouraged provided there are adequate buffers to adjacent properties of other uses and designs to promote compatibility and transitions to adjacent properties.

(e) It is not intended that the Commission automatically approve PD proposals that seek increases in density, changes in allowed uses, or alterations in district standards; rather, approvals shall only be received by those proposals that provide design characteristics that substantially achieve the purpose of this Chapter.

(f) A PD should utilize the following characteristics to the greatest possible extent which shall be considered in the approval process:

- (1) Designs that reflect the *Vision* and that offer types or densities of development that are not available under the other Sections of this *Code*.
- (2) Designs that utilize a creative approach to achieve better urban design, efficiencies in use of land and infrastructure, and the provision of aesthetic amenities.
- (3) Designs that provide appropriate buffers and transitions between areas with different land uses and development densities.
- (4) Designs that maintain or enhance the appearance of neighborhoods by complementing neighborhood architectural character.
- (5) Designs that are intended to encourage flexibility, innovation, and creativity in site and development design by allowing the mixing of permitted uses and/or modification of variation from otherwise applicable zone district and development standards.
- (6) Designs, which encourage a mix of retail, service, office, housing, live-work units, and public activities to coexist in a manner that reflects human scale and emphasizes pedestrian orientation, taking advantage of the vitality that mixed uses can bring to the community.
- (7) Designs that conserve areas of natural beauty and green spaces to the greatest degree possible consistent with accommodating new development.
- (8) Designs that incorporate “green architecture” pursuant to Resolution 7746-03, *City of Lakewood Green Building Policy*.
(Ord. 60-04. Passed 7-6-04.)

1156.03 STANDARDS FOR REVIEW OF A PRELIMINARY PD PLAN.

An application for approval of a Preliminary PD Plan, together with submitted plans and reports, shall be reviewed for its conformance with the following standards:
(Ord. 60-04. Passed 7-6-04.)

- (a) The proposed PD shall contain uses that are expressly permitted either by right or as conditional or accessory uses in a C1 Office, C2 Retail, C3 General Business, C4 Public School District, or the MH Multiple-Family, High Density Residential District, in which the PD is located or as modified according to (b) below, but such uses may be mixed within the planned development or within the same structure located in the PD;
(Ord. 89-04. Passed 11-1-04.)
- (b) The proposed PD shall comply with the subdivision requirements as set forth in Chapter 1155 of this *Code*, except to the extent modifications, variances, or waivers have been expressly allowed pursuant to paragraph (e) below;
- (c) Adverse impacts on adjacent properties, including but not limited to increased traffic or noise, as described in Chapter 515 of the Ordinances, and visual impacts, shall be mitigated to the maximum extent feasible;
- (d) The PD shall be integrated with adjacent development through street connections, sidewalks, trails, and similar features;

(e) All district, development, and subdivision standards set forth in Chapters 1127 and 1129 (such as lot size, floor area ratio, structure height, etc.), and 1155, except those specified in subsection (f) below, may be modified or varied upon a finding that the proposed PD incorporates creative site design which represents an improvement in quality and service of the purposes set forth in Section 1156.01 over what could have been accomplished through strict application of the otherwise applicable district or development standards, including but not limited to improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or choice of living and housing environments;

(f) The proposed PD shall comply with the following requirements, which shall not be modified or varied except as expressly set forth below or as permitted by the Commission.

- (1) Minimum area requirement. All Planned Developments shall have a minimum size of 10,000 square feet.
- (2) Setbacks from adjoining residential uses. A Planned Development shall comply with any applicable zone district standards that require minimum setbacks from adjoining residential uses or properties as set forth in Chapter 1121 and 1123.
- (3) Environmental protection standards. All Planned Developments shall comply with Ohio Environmental Protection Agency regulations and local ordinances.
- (4) Architectural and design standards. All Planned Developments shall comply with all architectural and design standards, including those set forth in Section 1156.05, Design Principles, of this *Code* and Chapter 1325 of the Building Code.
(Ord. 60-04. Passed 7-6-04.)

1156.04 PLANNED DEVELOPMENTS.

(a) Consolidation with Subdivision Approval. The applicant shall consolidate an application for Preliminary PD Plan approval with an application for subdivision plat approval, pursuant to Chapter 1155, and shall consolidate an application for Final PD Plan approval with an application for final subdivision plat approval. Such consolidated application shall be submitted in a form that satisfies both the PD requirements of this *Code* and the provisions, including submittal requirements, of Chapter 1155. The time frame and approval process for the consolidated PD/subdivision application shall follow the time frame and approval process set forth in this section. The plat included as part of an approved Final PD Plan shall be recorded as the final subdivision plat.

(b) Procedures for Approval of a Preliminary PD Plan. Planned Developments, similar to subdivisions, are first approved in preliminary form, and then approved in final form. The applicant may select Preliminary PD Plan Option One or Preliminary PD Plan Option Two.

- (c) Preliminary PD Plan Option One:
- (1) Pre-application conceptual review meeting. A pre-application conceptual review meeting shall be mandatory for all persons intending to submit an application for approval of a Preliminary PD Plan.
 - (2) The Commission's role shall be to review all applications for Preliminary PD Plans and make a recommendation to the Director to approve, approve with conditions, or deny the application based on compliance with Section 1156.03 of this *Code*. If the Commission recommends approval of an application with conditions, the applicant shall resubmit to the Commission a revised preliminary PD Plan that reflects the changes or modifications required or suggested by the Commission in its initial review.
 - (3) A plan previously receiving Preliminary Plan approval may proceed with Final PD Plan approval.
 - (4) Upon receipt of the approved Preliminary PD Plan from the Commission, the Director shall forward the application to the Architectural Board of Review for review of the application based on compliance with the standards set forth in subsection (j) below.
- (d) Preliminary PD Plan Option Two:
- (1) Pre-application conceptual review meeting. A pre-application conceptual review meeting shall be mandatory for all persons intending to submit an application for approval of a Preliminary PD Plan.
 - (2) The Commission's role shall be to review all applications for Preliminary PD Plans and make a recommendation to the Director to approve, approve with conditions, or deny the application based on compliance with Section 1156.03 of this *Code*. If the Commission recommends approval of an application with conditions, the applicant shall resubmit to the Commission a revised preliminary PD Plan that reflects the changes or modifications required or suggested by the Commission in its initial review.
 - (3) Preliminary approval must be received to proceed.
 - (4) Upon completion of the initial review of the Preliminary PD Plan by the Commission, the applicant may request the Director to submit the Preliminary PD Plan to City Council for review and preliminary approval.
 - (5) Upon receipt of the approved Preliminary PD Plan from the Commission and City Council, the Director shall forward the application to the Architectural Board of Review for review of the application based on compliance with the standards set forth in subsection (j) below.
- (e) Procedures for Approval of a Final PD Plan.
- (1) A plan previously receiving preliminary approval may be submitted for Final Approval.
 - (2) A Final PD Plan may cover the entire area covered by the Preliminary PD Plan, or it may include only a phase or phases of the Preliminary PD Plan. Only such phases as receive Final Approval may be advanced for purposes of obtaining building permits and being constructed.

- (3) A preliminary plan complying with the requirements set forth in Section 1155.03, Subdivision Regulations, General Requirements, and a plat complying with the requirements set forth in Section 1155.03, Subdivision Regulations, General Requirements, shall be prepared for each lot consolidation and submitted with an application for approval to the Director, except, at the discretion of the Director, the preliminary plan may be waived, prior to the deadline established by the Commission by rule. The purposes of the preliminary plan are to allow the Commission to determine if it qualifies as a potential PD and its compliance with other *City* codes.
- (4) Concurrent with submission of an application for approval of a Final PD Plan, the Director shall submit to City Council a final Development Agreement, if applicable, for review and execution.
- (5) The Commission's role shall be to review any application for Final PD Plan approval and make a recommendation to the Director to approve, approve with conditions, or deny the application based on its compliance with Section 1156.03 of this *Code*.
- (6) If the Commission recommends approval of an application with conditions, the applicant shall resubmit to the Commission a revised Final PD Plan that reflects the changes or modifications required or suggested by the Commission in its initial review.
- (7) Upon receipt of the approved Final PD Plan from the Commission the Director shall forward the application to the Architectural Board of Review for review of the application based on compliance with the standards set forth in subsection (j) below.
- (8) Upon receipt of:
 - A. The approved Final PD Plan from the Architectural Board of Review,
 - B. An approved lot split and/or lot consolidation plat signed by the Chairman and Secretary of the Commission, and
 - C. An approved and executed Development Agreement from City Council if applicable, the Final PD Plan and plat shall be forwarded to Council along with the Commission's recommendation for approval.
 - D. Council shall approve or disapprove the Final PD Plan within forty-five (45) days from the date received by Council.
 - E. When the Final PD Plan is approved:
 1. The plat shall be recorded;
 2. Applicable building permits may be applied for and issued; and
 3. Construction shall begin within sixty (60) days of issuance of the permits referred to in subparagraph (e)(8)E.2. herein.

(f) Street Acceptance. Where streets are to be dedicated to public use, upon approval of all improvements by the Engineer, the developer shall file a certificate and opinion of title, a guarantee of title or a title insurance policy in the amount of the market value of the property but not less than \$1,000.00 with the Law Director showing the title to the street(s) in the PD to be good in the *City* for street purposes and to be free and clear of all liens and encumbrances whatsoever. The plat shall then be presented to Council for acceptance and confirmation of the dedication of such street(s).

(g) Recording. The plat shall be filed and recorded in the offices of the County Auditor and County Recorder by an authorized representative of the *City* within thirty (30) days after final approval.

(h) Fees. A review and recording fee, established pursuant to Section 1173.06 shall be included with the application.
(Ord. 60-04. Passed 7-6-04.)

(i) Notice Procedures. Where a PD is requested, notice of the public hearing held pursuant to Section 1171.03(i) shall be made in a newspaper of general circulation no less than seven (7) days before the hearing; said notice shall state the time and place of the hearing in accordance with Chapter 107 (Publication of Legal Notices) of the Ordinances.
(Ord. 124-05. Passed 2-6-06.)

- (1) In addition, notice, indicating the time, place, and subject of the hearing, shall be sent by regular mail to the owners of:
 - A. All properties abutting the PD;
 - B. All properties abutting such properties described in subparagraph (i)(1)A. herein, including properties located across the right-of-way from or behind said abutting properties;
 - C. Any other property the Director deems affected by the proposed PD.
- (2) Where a property described in paragraph (i)(1) above contains a condominium of more than ten (10) units, notice shall be sent to the president of the condominium association and the management company responsible for the building; the management company shall receive sufficient copies of the notice to post two (2) on every floor of the building at locations determined by the company.

(j) Standards for Review. All applications for PD's shall demonstrate compliance with the requirements and review standards set forth in Section 1156.05 of this *Code* and Chapter 1325 of the Building Code.

(k) Effect of Approvals.

(1) Effect of approval of a Preliminary PD Plan.

- A. An approved Preliminary PD Plan shall be valid for a period of twelve (12) months from the date of the Commission's action.

- B. Application for approval of a Final PD Plan for all or any phase of the Preliminary PD Plan may be made at any time within the twelve (12) month period following the Commission's approval of the Preliminary PD Plan. An approved application for a Final PD Plan for any phase or portion of the Preliminary PD Plan shall extend the life of the Preliminary PD Plan for an additional twelve (12) month period from the date the Final PD Plan is approved. If the original or any successive twelve (12) month period expires before a completed application for a Final PD Plan approval is submitted, unless a different time frame is specified in the development agreement, the Preliminary PD Plan approval shall automatically lapse and be null and void and all of the properties included in the preliminary plan for which Final PD Plan approval has not been given shall be subject to the zoning and subdivision regulations otherwise applicable to them.
 - C. During the period an approved Preliminary PD Plan is effective, no subsequent change or amendment to this *Code* or any other governing ordinance or plan shall be applied to affect adversely the right of the applicant to proceed with any aspect of the approved development in accordance with the terms of such Preliminary PD Plan approval, except that the applicant shall comply with those local laws and regulations adopted subsequent to the approval of such Preliminary PD Plan if the Commission determines, on the basis of written findings, that compliance is reasonably necessary to protect the public health, safety, or welfare.
- (2) Effect of approval of a Final PD Plan.
- A. An approved Final PD Plan shall be valid for a period of two (2) years from the date City Council approves the rezoning.
 - B. During the period an approved Final PD Plan is effective, no subsequent change or amendment to this *Code* or any other governing ordinance or plan shall be applied to affect adversely the right of the applicant to proceed with any aspect of the approved development in accordance with the terms of such Final PD Plan approval, except that the applicant shall comply with those local laws and regulations adopted subsequent to the approval of such Final PD Plan if the Commission determines, on the basis of written findings, that compliance is reasonably necessary to protect the public health, safety, or welfare.
 - C. Within the two (2) year period, the developer/owner shall:
 1. Submit the plat portion of the Final PD Plan as the final subdivision plat for recording by the City surveyor, Chapter 1155 notwithstanding; and
 2. Undertake substantial construction of at least the first approved phase of the PD development.

- (3) If these actions are not completed within the two (2) year time period, such Final PD Plan shall automatically lapse and become null and void.
- (l) Applications for Preliminary and Final PD Plans shall be submitted to the Commissioner upon such forms as approved by the *City*.
- (m) Modifications of Final PD Plan.
 - (1) A minor modification shall be defined, for purposes of this Chapter, as any alteration other than a major modification (as defined below) to an already approved Final PD Plan.
 - A. A minor modification must be reviewed and approved by the Commission and Architectural Board of Review.
 - (2) A major modification shall be defined, for purposes of this Chapter, as the addition to an already approved Final PD Plan of any property or properties located in a C1 Office, C2 Retail, C3 General Business District or the MH Multiple-Family, High Density Residential District, or the addition to an already approved Final PD Plan of any property or properties located in the R1L, R1M, R1H, R2, ML or L residential zoning district that abut a PD or, the addition to an already approved Final PD Plan that changes the mix of uses.
 - A. The review of a major modification by the Commission, Architectural Board of Review and City Council shall be processed in accordance with the procedure for approval of a Preliminary and Final PD Plan as described in Section 1156.04(c) or Section 1156.04(d) and Section 1156.04(e).
(Ord. 60-04. Passed 7-6-04.)

1156.05 DESIGN PRINCIPLES.

The following Design Principles provide certain guidelines and requirements, as noted, in the design preparation of a Preliminary PD Plan.

- (a) Building and Site Design
 - (1) Wherever feasible, buildings shall be designed to provide massing configurations with a variety of different wall planes. Plain, monolithic structures with long walls and roof plane surfaces are discouraged.
 - (2) Each building facade shall incorporate design elements for each twenty (20) horizontal feet, such as changes in color or texture; projections, recesses, and reveals; arcades or pergolas providing pedestrian interest; or equivalent elements that subdivide the wall into human scale proportions. Ground level facades facing streets or pedestrian ways shall incorporate large amounts (at least sixty (60) percent of the facade) of windows that permit views into the interior of the building, or display windows.
 - (3) Building facades shall have highly visible customer entrances that feature canopies, overhangs, arcades, distinctive roof forms, arches, display windows, or landscaped features. Primary entrances should face streets on which they are located.

- (4) Buildings shall have well defined rooflines with attention to architectural detail. Consideration should be given to the prevailing pattern of roofs in the area surrounding and within the PD.
- (5) Sloping roofs, where used, shall have one (1) or more of the following architectural features: gables, hips, horizontal or vertical breaks, or other similar techniques that are to be integrated into the building architecture.
- (b) Building Materials. Building materials shall be limited to brick, masonry, stucco, wood, fiber, cement siding, wood shingle, wood siding, cultured stone, or other similar materials. Prohibited materials include aluminum or vinyl siding, dryvit-type products on the lowest eight (8) feet of any structure, split faced block, and other similar materials.
- (c) Vehicular Circulation and Access.
 - (1) Circulation systems shall be designed to efficiently facilitate traffic flow, yet designed to discourage speeds and volumes that impede pedestrian activity and safety.
 - (2) Street designs are encouraged to incorporate traffic calming devices and techniques.
 - (3) Common or shared access points are encouraged.
 - (4) To the maximum extent feasible, common or shared service and delivery access shall be provided between adjacent parcels or buildings, and provided to the rear of buildings.
 - (5) Safe and adequate site distances shall be provided at all intersections.
 - (6) Transit stops should be incorporated into site plans, where feasible.
 - (7) The developer as part of the site plan review process shall provide traffic impact studies.
- (d) Pedestrian Access and Circulation.
 - (1) A coordinated pedestrian system shall be provided throughout the PD, including connections between uses on the site, and between the site and adjacent properties and rights-of-way. Pedestrian connections shall be provided to properties across streets wherever feasible.
 - (2) The site shall be connected to adjacent properties and pedestrian facilities to the maximum extent feasible.
 - (3) Continuous sidewalks or other pedestrian facilities shall be provided between the primary entrances to buildings, all parking areas that serve the buildings, pedestrian facilities on adjacent properties that extend to the boundaries shared with the PD, any public sidewalk along perimeter streets, or other community amenities or gathering spaces.
 - (4) Decorative sidewalks, such as brick pavers, are encouraged at key intersections or streets.
 - (5) Street furniture or other amenities are encouraged, such as plazas, benches, and decorative pedestrian light fixtures.
 - (6) Open and public areas should be provided as a mixture of green space landscaping and hardscape pedestrian areas with a goal of twenty (20) percent of the site area.

- (e) Parking.
- (1) Adequate parking shall be provided, but excessive parking is discouraged. The standards contained in Chapter 1143 shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations as determined by the Commission, and a finding by the Commission that the modified parking standards would comply with the provisions of the *Code* and the intent of the PD.
 - (2) Parking shall be distributed between the front, side, and rear of buildings to the maximum extent feasible.
 - (3) The visual impact of parking shall be minimized through the use of interior landscaped islands and through dividing parking spaces into groupings.
 - (4) The edges of parking lots shall be screened through landscaping or other methods such as decorative fences.
 - (5) A minimum of one (1) off-street parking space shall be required behind each residential unit or garage. No garage openings shall be permitted onto public streets.
- (f) Landscaping and Screening.
- (1) It shall be the duty of the Commission to determine whether a reasonable percentage of the area within a PD shall be maintained in a combination of landscaped and urban open space. The project must adhere to the spirit of the *City's* landscape values. The standards contained in Chapter 1141 shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations determined by the Commission that such considerations would comply with the provisions of the *Code* and the intent of the PD.
 - (2) Pedestrian access from adjacent residential streets is encouraged. The owners of residential property directly abutting rear yards, parking and loading areas of a PD shall be contacted and offered masonry screening and/or appropriately designed alternatives. PD applicants shall document meetings with abutting residential owners and the results of such meetings. The intent of this provision is for the applicant to involve nearby residents in the PD project. City staff shall assist in this process.
 - (3) Where required, screening fences and walls shall be erected. The standards of Chapter 1141 shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations determined by the Commission that such considerations would comply with the provisions of the *Code* and the intent of the PD.
 - (4) If used, the owner of the property on which the fence is required to be erected shall permanently and adequately maintain screening fences or walls. The following types of walls or fences shall qualify, Chapter 1141 notwithstanding.
 - (5) Masonry wall or fence. Masonry fences or walls shall be constructed with the finish side out and of any of the following materials:

- A. Native stone
 - B. Brick
 - C. Precast concrete panels with decorative finish or decorative concrete masonry units
 - D. In no case shall more than twenty-five percent (25%) of the area of the fence be erected with common smooth-face masonry units.
- (6) Ribbed metal panel fence. Suitably finished to blend with the primary structure and supported by structurally sound metal frame.
- (7) Vegetative screening. Using plants and fence materials, vegetative screens may be proposed.
- (8) Screening of roof-mounted equipment. All roof-mounted equipment that rises above the roofline of any building or structure
- (g) Streetscape Improvements.
- (1) A Streetscape Plan shall be submitted for the entire site. The Streetscape Plan shall address the relationship between vehicular and pedestrian traffic, pedestrian facilities, street and sidewalk lighting, landscaping, street furniture, trash receptacles, and transit stops.
 - (2) The design of streets, pedestrian ways, landscaping, lighting, and street furniture shall be coordinated and integrated throughout the site.
 - (3) Vehicular streets and driveways shall be designed to be compatible with pedestrian ways to encourage a pedestrian friendly environment. The width of streets shall be sensitive to pedestrian scale, and shall be minimized to avoid overwhelming that pedestrian scale while allowing for efficient vehicular traffic flow.
 - (4) Site furnishings such as benches, seating, trash receptacles, bike racks, lighting fixtures, and tree grates shall be addressed in the Streetscape Plan.
- (h) Service Area and Mechanical Screening.
- (1) The location of service areas and mechanical equipment shall be considered as part of the overall site design.
 - (2) Service areas and mechanical equipment shall be screened from public view.
- (i) Signage.
- (1) A master sign plan shall be prepared illustrating the location, type, size, and materials of all signage, pursuant to Chapter 1329 of the Building Code.
 - (2) It shall be the duty of the Board of Building Standards/Architectural Board of Review to review the sign proposal. The standards contained in Chapter 1329 of the Building Code shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations determined by the Board of Building Standards/Architectural Board of Review that such considerations would comply with the provisions of the Building Code and the intent of the PD. Generally, the standard will be landscaped monument signs and multi-tenant signs.

- (j) Lighting.
- (1) A lighting plan shall be prepared, including a photometric illustration.
 - (2) It shall be the duty of the Board of Building Standards/Architectural Board of Review to review the lighting proposal. The standards contained in Chapter 1306 of the Property Maintenance Code shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations determined by the Board of Building Standards/Architectural Board of Review that such considerations would comply with the provisions of the Building Code and the intent of the PD.
 - (3) Lighting shall be designed to avoid spillover onto adjacent properties through the use of cutoff shields or other similar features.
- (k) Fences. It shall be the duty of the Architectural Board of Review to review the fence requirements pursuant to Chapter 1153 to determine whether said plan is consistent with the provisions of the *Code* and the intent of the PD.
- (l) Urban Open Space.
- (1) No plan for a PD shall be approved unless such plan provides for urban open space.
 - (2) Common open space (whether dedicated to public use or owned and maintained in common by the owner or owners) shall be reserved for the leisure and recreational use of all the project's occupants and readily accessible thereto.
 - (3) The guideline for PD open space is twenty percent (20%) of the project area.
 - (4) Landscaping requirements can be incorporated into the open space requirement pursuant to subsection (f).
 - (5) The Commission in making this determination may consider the availability and nature of adjacent or nearby public open space and parkland.
 - (6) Common open space is land area of which at least fifty percent (50%) is not covered by buildings, structures or the building's parking spaces.
 - (7) Common open space shall be guaranteed by a restrictive covenant in the deed describing the open space and its uses, and requirements regarding maintenance, and improvement that run with the land for the benefit of occupants or the public.
- (m) Amenities. All PD's with residential uses may provide amenities within the site which may include: courtyards, a swimming pool, spa, clubhouse, tot lot with play equipment, picnic shelter/barbecue area, court game facilities such as tennis, basketball, or racquetball, or child day care facilities. The type of amenities shall be approved by the Commission and provided according to the following schedule:

Number of Dwelling Units	Minimum Number of Amenities
0-11	0
12-50	1
51-100	2
101-200	3
201-300	4

(Ord. 60-04. Passed 7-6-04.)

1156.06 DEVIATIONS FROM OTHER REGULATIONS.

(a) The Commission may approve deviations from other applicable regulations of this *Code* controlling development within a PD, provided that the Commission shall find that such deviation shall be solely for the purpose of promoting an integrated site plan and would be consistent with the *Vision*.

(b) Any deviation from the standard development requirements included in the *Code* shall be justified by the benefits and design of the proposed PD.

(c) Additional standards specific to a PD.

- (1) Unified ownership. The entire tract or parcel of land to be occupied by the proposed development shall be held in single ownership, or if there are two (2) or more owners, the application for such proposed development shall be filed jointly by all such owners. This requirement shall ensure that the property is developed as a unified whole.
- (2) Unified ownership or purchase agreement must be accomplished prior to a Development Agreement, if applicable, being submitted to the Director.
- (3) Site design. The location, configuration, construction, manner and time of operation of off-street parking and loading areas, service areas, circulation systems, entrances, exits, open space, amenities, lighting, or other potentially detrimental influences shall be designed to avoid adverse effects on:
 - A. Residential uses within or adjoining the development;
 - B. Traffic congestion; and vehicular or pedestrian traffic.

- (4) Utilities. The proposed development shall provide, if possible, for underground installation of utilities (including electricity and telephone) within both public ways and private extensions thereof. Provisions also shall be made for acceptable design and construction of storm water facilities including grading, gutter, piping, and treatment of turf and maintenance of facilities. Stormwater facilities shall be designed and constructed in compliance with Ohio Environmental Protection Agency regulations and local ordinances.
(Ord. 60-04. Passed 7-6-04.)

1156.07 PERFORMANCE AND MAINTENANCE BONDS.

(a) For all PDs, the City shall require a performance bond equal to the total cost of the improvements to be completed. Such bond shall set forth the *City* as the beneficiary and shall be issued by a reputable and solvent bonding company, licensed to do business in Ohio and shall be deposited with and retained by the *City* until all improvements are constructed to the satisfaction of the Engineer (for public improvements) and the Building Commissioner (for private improvements). The *City* may waive such performance bond requirement if there is a Development Agreement with the *City*, which governs such security provisions.

(b) After the public improvements are completed and accepted by the Engineer, the Engineer may require the developer to provide the *City* with a two (2) year maintenance bond of at least ten percent (10%) of the approved estimated cost of construction. The developer shall complete the construction or repairs of all improvements within two (2) years from the date of permission to proceed. Otherwise, the *City* shall have the right to use the performance bond money to complete the improvements. Council may extend the aforesaid two (2) year period for good cause.
(Ord. 60-04. Passed 7-6-04.)

CHAPTER 1157
Antennas

1157.01 Purpose.	1157.03 Variances.
1157.02 Regulations.	1157.04 Exemptions.

CROSS REFERENCES

Variances - see P.& Z. 1173.04
Fees - see P.& Z. 1173.06
Federal Communication Commission (FCC)
Memorandum Opinion and Order PRB-1

1157.01 PURPOSE.

This Chapter is adopted in order to regulate location, screening, and height of all satellite dish antennas. The herein regulations are necessary to protect the public health, safety, and welfare due to the close proximity of dwellings and narrow side yards common in the *City*. (Ord. 24-98. Passed 5-18-98.)

1157.02 REGULATIONS.

(a) No more than one (1) antenna may be placed on a lot where the principal use is a single-family, two-family, or three-family dwelling. No more than three (3) antennas may be placed on a lot where the principal use is a multi-family dwelling, or a commercial or industrial use.

(b) No antenna or its supporting structure shall be placed in a front or side yard.

(c) A roof-mounted antenna shall be located as near to the rear property line as is practicable to not impose unreasonable limitations on reception.

(d) The maximum length or diameter of any antenna, exclusive of structural supports, shall not exceed twelve (12) feet.

(e) No antenna shall project more than twelve (12) feet above the highest point of the roof of the principal structure.

(f) Antennas and their support structures shall be so constructed, when considering the total surface area of the antenna, to withstand wind loads of:

- (1) Eighty-five (85) miles per hour when the antenna is located on a lot north of the center line of Lake Avenue; or
- (2) Seventy (70) miles per hour when the antenna is located on any other lot within the City.

Prior to the issuance of any permit required by this *Code* or these Ordinances, the property owner must submit to the Commissioner drawings and specifications sufficient to verify that the proposed installation will comply with the requirements of this subsection (f).

(g) An antenna shall be of a color which is compatible with its location, and an antenna greater than three (3) feet in length or diameter shall not bear any advertisement, picture, lettering, or visual image.

(h) A ground-mounted antenna not attached to the principal or an accessory structure shall be screened by shrubbery or other landscaping so as to protect the public interest; such screening shall not impose unreasonable limitations on reception.

(i) The fee established pursuant to Section 1173.06.
(Ord. 91-95. Passed 10-7-96.)

1157.03 VARIANCES.

When considering a variance to the requirements of this Chapter, the Board shall apply the policies and guidelines set forth in Federal Communication Commission (FCC) Memorandum Opinion and Order PRB-1 or subsequent or additional rulings, regulations, or orders of the FCC, Section 1173.04 notwithstanding.
(Ord. 91-95. Passed 10-7-96.)

1157.04 EXEMPTIONS.

The provisions of this Chapter shall not apply to a satellite receive-only antenna which:

- (a) Is six (6) feet or less in diameter and is, or is proposed to be, located in any commercial or industrial district; or
 - (b) Is three (3) feet or less in diameter.
- (Ord. 91-95. Passed 10-7-96.)

CHAPTER 1159
Wireless Telecommunication Facilities

<p>1159.01 Purpose.</p> <p>1159.02 Definitions.</p> <p>1159.03 Applicability.</p> <p>1159.04 Use regulations.</p>	<p>1159.05 Minimum standards for construction, erection, maintenance and removal.</p> <p>1159.06 Exemption of certain City property.</p>
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CROSS REFERENCES

Landscaping and screening - see P.& Z. Ch. 1141
 Conditional use - see P.& Z. Ch. 1161
 Conditional use permit - see P.& Z. 1173.02
 Fees - see P.& Z. 1173.06
 Federal Telecommunications Act of 1996
 Federal law at 47 U.S.C. §332(c)(7)

1159.01 PURPOSE.

These regulations are established to provide for the construction and use of wireless telecommunication facilities in the *City*. The regulations allow wireless telecommunication facilities as a permitted use, conditional use, or accessory use depending upon the specific land areas of the *City* in which, and circumstances under which, they are proposed to be located. The purpose of these regulations is to balance the competing interests created by the Federal Telecommunications Act of 1996 (Public Law 104-104, codified at 47 U.S.C. §§ 151 et seq.) and the interests of the *City* in regulating wireless telecommunication facilities for the following reasons:

- (a) To provide for orderly development within the *City*;
- (b) To protect property values;
- (c) To maintain the aesthetic appearance of the *City*, including, but not limited to, its unique residential character, unobstructed open spaces and attractive commercial, office, and industrial areas;
- (d) To protect residential properties, parks, open spaces and the nonintensive commercial zoning districts which are characteristic of the *City* from the adverse effects of towers and related facilities;
- (e) To promote collocation of wireless telecommunications facilities in order to decrease the total number of towers in the *City*;
- (f) To provide for and protect the health, safety and general welfare of the residents and visitors of the *City*; and

- (g) To maintain, where possible, the integrity of the existing zoning regulations contained in the *Code*.

The regulations establish a hierarchy of acceptable land areas for the location of wireless telecommunication facilities through the establishment of such use as a permitted use in certain zoning districts, as a conditional use in certain zoning districts, or as a permitted accessory use for erection of antennas only, which determination is dependent upon the location and characteristics of such land areas.

(Ord. 3-98. Passed 5-18-98.)

1159.02 DEFINITIONS.

(a) **COLLOCATION** means the use of a wireless telecommunications facility by more than one (1) wireless telecommunications provider.

(b) **LATTICE TOWER** means a support structure constructed of vertical metal struts and cross braces forming a triangular or square structure, which tapers from the foundation.

(c) **MONOPOLE** means a support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

(d) **PERSONAL WIRELESS SERVICES** means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined by federal law at 47 U.S.C. §332(c)(7).

(e) **TECHNICALLY SUITABLE** means the location of a wireless telecommunication antenna(s) reasonably serves the purpose for which it is intended within the band width of frequencies for which the owner or operator of the antenna(s) has been licensed by the Federal Communications Commission (FCC) to operate without a significant loss of communication capability within developed areas of the City.

(f) **TELECOMMUNICATION(S)** means the technology that enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or magnetic systems and includes the term "Personal Wireless Services."

(g) **WIRELESS TELECOMMUNICATION ANTENNA** or **ANTENNA ARRAY** means the physical device or an array of elements constituting a physical device through which electromagnetic, wireless telecommunications signals authorized by the FCC are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

(h) **WIRELESS TELECOMMUNICATIONS EQUIPMENT SHELTER** or **EQUIPMENT SHELTER** means the structure or cabinet in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

(i) **WIRELESS TELECOMMUNICATION FACILITY or FACILITY** means a facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer, which connects the mobile unit with the land-based telephone lines for the provision of “Personal Wireless Services.”

(j) **WIRELESS TELECOMMUNICATION TOWER or TOWER** means a structure, other than a building, that elevates the wireless telecommunication antenna and may include accessory transmission and receiving equipment.
(Ord. 3-98. Passed 5-18-98.)

1159.03 APPLICABILITY.

No person shall construct, erect, maintain, extend or remove a wireless telecommunication facility in the City without compliance with the provisions of this Chapter.
(Ord. 3-98. Passed 5-18-98.)

1159.04 USE REGULATIONS.

(a) Permitted Use. A wireless telecommunication tower shall be permitted in any interstate highway right-of-way pursuant to the provisions as set forth in Section 1159.05 of this Chapter where applicable.

(b) Conditionally Permitted Use.

(1) A wireless telecommunication tower may be permitted as a conditional use only in an Industrial District. Such use may be approved by the Commission provided the applicant demonstrates compliance with the requirements of this subsection (b)(2) and all of the provisions of Chapter 1161, Section 1173.02 and Section 1159.05 of this Chapter:

(2) Collocation.

A. There is no technically suitable space for the applicant’s antenna(s) and related facilities reasonably available on an existing tower, building or structure within the geographic area to be served. With the application, the applicant shall list the location of every tower, building or structure that could support the proposed antenna(s) or area where it would be technically suitable to locate so as to allow it to serve its intended function. The applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, building or structure. If another existing tower, building or structure is technically suitable, the applicant must demonstrate that it has requested to collocate on the existing tower, building or structure and the collocation request was rejected by the owner of the tower, building or structure. In all circumstances, owners of existing towers, buildings or structures shall promptly respond in writing to requests for collocation, but in no event shall they respond more than thirty (30) days from the date of receipt of a written request for collocation.

If another tower, building or structure is technically suitable, the applicant must further show that it has offered to allow the owner of that other tower, building or structure to collocate an antenna(s) on another tower, building or structure within the *City* which is owned or controlled by the applicant, if any, on reasonably reciprocal terms and the offer was not accepted; and

- B. All applicants for construction or erection of wireless telecommunication towers shall be required to construct on a base tower structure and structure foundation that is designed to be buildable up to, but not including, 200 feet above grade. Such structure shall be designed to have sufficient structural loading capacity to accommodate at least three (3) antenna or antenna array platforms of equal loading capacity for three (3) separate providers of service to be located on the structure when constructed to the maximum allowable height. The wireless telecommunication facility shall also be designed to show that the applicant has enough space on its site plan for an equipment shelter large enough to accommodate at least three (3) separate users of the facility. If an equipment shelter is initially constructed to accommodate only one (1) user, space shall be reserved on site for equipment shelter expansions to accommodate up to at least three (3) separate users. Agreement to the provisions of this subsection must be included in the applicant's lease with the landowner, if different from the owner/user of the tower. Written documentation must be presented to the Director evidencing that the landowner of the property on which the tower is to be located has agreed to the terms of this subsection. As an additional condition of issuing a conditional use permit, the owner/user shall respond in writing to any inquiries regarding collocation of another user of the facility within thirty (30) days after receipt of a written inquiry. Copies of all written requests to collocate and all written responses shall be sent to the Director.
- (c) Accessory Use - Antennas.
- (1) Permitted accessory use. The installation of a wireless telecommunication antenna where the construction or erection of a wireless telecommunication tower is not proposed by the applicant, shall be permitted as an accessory use:
 - A. On existing buildings that are seven (7) or more stories above grade in any zoning district in the *City* provided that no more than three (3) antennas or antenna arrays shall be installed on any building, the height of the antenna is no greater than fifteen (15) feet above the highest point of the roof, and all electronic and relay equipment for the antenna shall be housed within the existing building or in an equipment shelter that is screened so as not to be visible from neighboring properties, public rights-of-way, and other public areas;

- B. On existing structures, other than buildings (such as steeples, smokestacks, towers, etc.), provided that the antenna shall be obscured from views from neighboring properties, public rights-of-way, and other public areas and all electronic and relay equipment for the antenna shall be housed within the existing structure or an existing building on the same lot.
- (2) Conditional accessory use. The installation of an antenna where the construction or erection of a tower is not proposed by the applicant may be permitted as a conditional accessory use if approved by the Commission pursuant to Sections 1161.02 and 1173.02, as well as the standards set forth in Section 1159.05 of this Chapter where applicable, and under the following circumstances:
- A. On an existing building or structure where three (3) or more antennas or antenna arrays have been installed provided that the antenna shall otherwise comply with the requirements of subsections (c)(1)A. and B. or;
 - B. On an existing structure other than a building, where the proposed antenna would be installed so as not to be obscured from the views from neighboring properties, public rights-of-way and other public areas provided that the antenna otherwise complies with the remaining requirements of subsection (c)(1)B., and/or all electronic and relay equipment for the antenna is not housed within the existing structure or an existing building on the same lot.

To the extent the remaining standards of this Chapter are applicable to the installation of a wireless telecommunication antenna on an existing building or structure, such standards shall govern the installation.

(Ord. 3-98. Passed 5-18-98.)

1159.05 MINIMUM STANDARDS FOR CONSTRUCTION, ERECTION, MAINTENANCE AND REMOVAL.

Except as otherwise provided in this Chapter, all wireless telecommunication towers and their related facilities shall comply with the following standards:

- (a) Spacing. There shall be a separation of a minimum of one-quarter ($\frac{1}{4}$) mile between wireless telecommunication towers, including a separation of at least one-quarter ($\frac{1}{4}$) mile from any such tower located outside the *City's* corporate limits at the time an application is made for a tower to be located within the *City*.
- (b) Height.
 - (1) The maximum height of a free-standing wireless telecommunication tower, including its antenna and all appurtenances, shall be less than 200 feet above the approved grade.

- (2) The maximum height of any wireless telecommunication antenna installed pursuant to subsection 1159.04(c)(1)B. shall be no greater than the height of the existing tower or structure to which it is attached. The maximum height of any antenna installed pursuant to subsection 1159.04(c)(1)A. shall be no greater than fifteen (15) feet above the highest point of the roof on which it is attached.
 - (3) The height of any equipment shelter shall not exceed fifteen (15) feet from the approved grade.
 - (c) Setbacks.
 - (1) Except as provided in subsection (c)(2) below, all wireless telecommunication towers shall be set back from property lines a distance of at least 300 feet from residentially zoned property. Otherwise, the tower and related facilities shall comply with the required setbacks for the zoning district in which they are located. In no event shall a wireless telecommunication tower or facility be located in front of the principal building on the lot, if any.
 - (2) All wireless telecommunication towers located on an Interstate Highway right-of-way shall be set back from a dwelling unit a distance of 110% of the height of the Tower.
 - (d) Design.
 - (1) All wireless telecommunication towers shall be of a monopole design, as opposed to a lattice design. No guy wired towers shall be permitted.
 - (2) All wireless telecommunication facilities shall be subject to review by the Architectural Board of Review (ABR) for the purpose of enhancing the compatibility of the facilities with their surroundings. The color of a wireless telecommunication tower including any antenna(s) attached thereon shall be as determined by the ABR for the purpose of minimizing its visibility, unless otherwise required by the FCC or the Federal Aviation Administration (FAA).
 - (3) The wireless telecommunication antenna(s) shall be of a panel design and mounted flush to the tower, building or structure which elevates the antenna(s), unless the applicant can demonstrate that it is not feasible from an engineering standpoint to use such antenna(s) or to mount them in such a fashion.
 - (e) Landscaping. A landscaped buffer area of not less than fifteen (15) feet in depth shall be placed between the wireless telecommunication facilities and the public rights-of-way and any adjacent properties from which a direct view can be had of the facilities, other than the tower itself. The fifteen (15) foot landscaped buffer shall have a tight screen fence of hardy evergreen shrubbery not less than six (6) feet in height, Chapter 1141 notwithstanding. The landscaping shall be continuously maintained and promptly restored, if necessary.
 - (f) Engineering Report. A report shall be prepared and submitted by a qualified and licensed professional engineer and shall provide proof of compliance with all applicable Federal, State, County, and *City* regulations. The report shall include a detailed description of the wireless telecommunication tower, antenna(s), equipment shelter, and appurtenances, and shall certify that radio frequency emissions are in compliance with the regulations of the FCC and shall certify that the use of the facilities will not adversely affect or interfere with radio transmissions for public safety purposes.

- (g) Maintenance.
- (1) The applicant shall submit a plan documenting how the wireless telecommunication facility will be maintained on the site in an ongoing manner that meets industry standards.
 - (2) On each biennial anniversary of the issuance of the use permit for a wireless telecommunication facility, or not more than ninety (90) days prior thereto, the owner/user shall submit to the *City* a report prepared by a licensed professional engineer(s) which shall verify continued compliance of the facility with all governmental requirements including, but not limited to, the structural integrity and stability of any towers or antennas, electrical safety standards, and auxiliary power source safety standards.
- (h) Lighting.
- (1) All wireless telecommunication antennas or towers 100 feet in height or greater shall be illuminated for aviation purposes by the most visually nonobtrusive “state-of-the-art” lighting available, unless otherwise required by the FAA. Lighting fixtures or signs shall not be attached to the antenna or tower.
 - (2) Unless required by law, all antennas or towers less than 100 feet in height shall not be illuminated and lighting fixtures or signs shall not be attached to the antenna or tower. If lighting is required by FAA regulations, the most visually nonobtrusive “state-of-the-art” lighting available shall be used, unless otherwise required by the FAA.
- (i) Security.
- (1) A security fence not less than six (6) feet above grade but not greater than eight (8) feet in height shall fully enclose those portions of the wireless telecommunication facility which come in contact with the ground. Any fence greater than six (6) feet above grade shall be construed such that at least fifty percent (50%) of any linear foot of such fence is open for the through passage of light and air. Gates shall be locked at all times.
 - (2) A permanent warning sign with a minimum size of one (1) square foot and a maximum size of three (3) square feet shall be posted on the site, as well as an emergency telephone number of the owner/user of each set of antennas on the site. The owner/user shall also provide the Commissioner, the Fire Department and the Police Department, with information on whom to contact, an address, and a telephone number in the event of an emergency.
- (j) Advertising Prohibited. No advertising sign(s) or device(s) shall be permitted anywhere on a wireless telecommunication facility site.
- (k) Outdoor Storage. There shall be no outdoor storage of equipment or other items on the wireless telecommunication facility site except during the facility construction period and to supply temporary emergency power to the facility only during a power outage.

- (l) Access to Facility. The access driveway to the wireless telecommunication facility shall, whenever feasible, be provided along with circulation driveways of the existing use on the lot, if any. Where use of an existing driveway is not feasible, the driveway to the facility shall be a minimum of eighteen (18) feet in width with a minimum overhead clearance of eleven (11) feet and shall be set back a minimum of twenty (20) feet from the nearest side or rear lot line. This driveway shall meet the load limitations for fire equipment.
If the access road to the facility is more than 1,500 feet from the public right-of-way, a turnaround shall be provided for emergency vehicles at the site and a by-pass, adequate for emergency vehicles, with an approachable access shall be provided for each additional 1,500 feet of the driveway. There shall be a maximum of one (1) off-street parking space on the facility site.
- (m) Accessory Equipment Shelter. The maximum cumulative total size of all equipment shelters accessory to a wireless telecommunication tower or antenna on a lot shall be 750 square feet and their maximum height shall not exceed fifteen (15) feet above the approved grade at the site for an equipment shelter with a pitched roof and a maximum height of ten (10) feet above the approved grade at the site for an equipment shelter with a flat roof. Only one (1) equipment shelter, or the configuration of more than one (1) equipment shelter constructed to appear that there is only one (1) equipment shelter, shall be permitted on a lot. The roof and facade of the equipment shelter shall be compatible as to architectural design and materials with the principal building on the lot, if any. Where it is technically feasible and reasonably practical, an existing building or structure on a lot shall be used to shelter the equipment associated with a wireless telecommunication facility.
- (n) Utilities to be Underground. All utility lines from the utility source to the wireless telecommunication facility shall be underground.
- (o) Time Limit for Commencement and Completion. After issuance of a building permit to construct a wireless telecommunication facility, the applicant shall commence construction within six (6) months and shall complete construction within one (1) year or the permit shall expire.
- (p) Abandonment and Removal of Facilities.
- (1) If at any time the use of the wireless telecommunication facility is discontinued for 180 consecutive days, the facility shall be deemed abandoned. The Director shall notify the owner/user in writing and advise that the facility must be reactivated within ninety (90) days, or it must be dismantled and removed from the site and the site restored to a landscaped condition within that same ninety (90)-day period, all at the cost of the owner/user. The owner/user of the wireless telecommunication facility shall, on no less than an annual basis from the date of issuance of the use permit, file a declaration with the Director as to the continuing operation of each of its facilities within the *City*.
 - (2) The applicant for a wireless telecommunication tower shall be required as a condition of issuance of a building permit to post a cash or surety bond of not less than \$100.00 per vertical foot from grade of the wireless telecommunication facility.

If an access drive which is separate from an existing access drive on the property is required to be constructed for a wireless telecommunication facility, the owner/operator of the facility shall also be required as a condition of issuance of a building permit to post a cash or surety bond of not less than thirty dollars (\$30.00) per linear foot of access drive. The bond(s) shall insure that an unused, abandoned, obsolete or destroyed wireless telecommunication facility and/or access drive shall be removed within 180 days of cessation of use or abandonment. Any successor-in-interest or assignee of the applicant shall be required to additionally execute such bond, as principal, to insure that the bond will be in place during the period of time that the successor-in-interest or assignee occupies or operates the facility.

- (q) Fees. The fee(s) established pursuant to Section 1173.06.
(Ord. 3-98. Passed 5-18-98.)

1159.06 EXEMPTION OF CERTAIN CITY PROPERTY.

Regardless of the provisions of this Chapter, a wireless telecommunication facility may be permitted on any property owned or controlled by the *City* and used for public services and shall be constructed, erected, maintained, extended and removed under such conditions, standards and regulations as required by *City* Council.
(Ord. 3-98. Passed 5-18-98.)

**CHAPTER 1160
Wind Energy Facility**

1160.01	Purpose.	1160.11	Noise and shadow flicker.
1160.02	Definitions.	1160.12	Waiver of noise and shadow flicker.
1160.03	Applicability.	1160.13	Signal interference.
1160.04	Use regulations.	1160.14	Liability insurance.
1160.05	Conditional use permit.	1160.15	Decommissions.
1160.06	Design and installation.	1160.16	Public inquiries and complaint remedies.
1160.07	Setbacks.	1160.17	Remedies.
1160.08	Height restrictions.		
1160.09	User of public roads.		
1160.10	Local emergency services.		

CROSS REFERENCES

State regulations - see Ohio R.C. 721.04
 Height regulations - see P.& Z. 1121.05, 1123.05, 1125.04, 1127.05, 1129.07, 1131.06, 1133.07, 1135.08
 Conditional uses - see P.& Z. Ch. 1161
 Planning Commission - see P.& Z. 1171.03
 Conditional use permit - see P.& Z. 1173.02
 Fees - see P.& Z. 1173.06
 Architectural Board of Review - see BLDG. Ch. 1325

1160.01 PURPOSE.

This Chapter is adopted in order to provide for the construction and operation of Wind Energy Facilities in the *City* including Lakewood's jurisdictional limit two (2) miles into Lake Erie, subject to reasonable conditions that will protect the public health, safety and welfare. (Ord. 73-08. Passed 9-2-08.)

1160.02 DEFINITIONS.

- (a) **APPLICANT** means the person or entity filing an application under this Chapter.
- (b) **FACILITY OWNER** means the entity or entities having an equity interest in the wind energy facility, including their respective successors and assigns.
- (c) **HUB HEIGHT** means the distance measured from the surface of the tower foundation to the height of the wind turbine hub, to which the blade is attached.

(d) **NON-PARTICIPATING LANDOWNER** means any landowner except those on whose property all or a portion of a wind energy facility is located pursuant to an agreement with the facility owner or operator.

(e) **OPERATOR** means the entity responsible for the day-to-day operation and maintenance of the wind energy facility.

(f) **OCCUPIED BUILDING** means a residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.

(g) **SHADOW FLICKER** means the on-and-off flickering effect of a shadow caused when the sun passes behind the rotor of a wind turbine.

(h) **TURBINE HEIGHT** means the distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

(i) **WIND TURBINE** means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

(j) **WIND ENERGY FACILITY** means an electric generating facility, whose main purpose is to supply electricity, consisting of one (1) or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.
(Ord. 73-08. Passed 9-2-08.)

1160.03 APPLICABILITY.

(a) No person shall construct, erect, maintain, extend or remove a wind energy facility in the *City*, including the territory extending into Lake Erie to the distance of two (2) miles from the natural shore line pursuant to the authority granted in Ohio Revised Code §721.04, without compliance with the provisions of this Chapter.

(b) Wind energy facilities constructed prior to the effective date of this *Code* shall not be required to meet the requirements of this *Code*; provided that any physical modification to an existing wind energy facility that materially alters the size, type and number of wind turbines or other equipment shall require a conditional use from the Commission.
(Ord. 73-08. Passed 9-2-08.)

1160.04 USE REGULATIONS.

(a) Conditionally Permitted Use.

(1) A wind energy facility may only be permitted as a conditional use. The Commission may approve such use provided the applicant demonstrates compliance with the requirements of this Chapter and all of the provisions of Chapter 1161, and Section 1173.02.
(Ord. 73-08. Passed 9-2-08.)

1160.05 CONDITIONAL USE PERMIT.

(a) No wind energy facility, or addition of a wind turbine to an existing wind energy facility, shall be constructed or located within the *City* unless a conditional use permit has been issued by the Commission, pursuant to the requirements of Chapter 1161 and Section 1173.02, to the facility owner or operator approving construction of the facility for compliance with the applicable sections of this Chapter and the *Code*.

(b) Fees. The fee(s) established pursuant to Section 1173.06.

(c) Any physical modification to an existing conditionally permitted wind energy facility that materially alters the size, type and number of wind turbines or other equipment shall require conditional use approval by the Commission pursuant to Chapter 1161. Like-kind replacements as determined by the Building Commissioner shall not require review by the Planning Commission.

(d) Submission Requirements.

- (1) An application for a Conditional Use Permit shall be on a form approved by the Director and shall contain the following information:
 - A. The name, address, and telephone number of the applicant.
 - B. The address and zoning district of the subject property.
 - C. A narrative description of the existing use.
 - D. A narrative describing the proposed wind energy facility, including an overview of the project; the project location; the approximate generating capacity of the wind energy facility; the approximate number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
 - E. An affidavit or similar evidence of agreement between the property owner and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner to apply for necessary permits for construction and operation of the wind energy facility.
 - F. Identification of the properties on which the proposed wind energy facility will be located, and the properties adjacent to where the wind energy facility will be located.
 - G. A site plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback, a lighting plan, a plan showing areas impacted by shadow flicker, and other information the Commission may require.

- H. Documents related to decommissioning.
 - I. Other relevant studies, reports, certifications and approval as may be reasonably requested by the *City* to ensure compliance with this Chapter and *Code*.
 - J. Any documents reasonably deemed necessary by the Director.
 - K. The fee as established pursuant to Section 1173.06.
- (2) Upon receipt of an application for a Conditional Use Permit, the Director shall, within thirty (30) working days, make a preliminary review of the application to determine compliance with the requirements of paragraph (1) herein. If the Director determines that the application is not complete, the Director shall immediately notify the applicant; otherwise, the Director shall forward the application to the Commission for review at its next regularly scheduled meeting.
 - (3) Within sixty (60) days of a completeness determination, the Director shall schedule a public hearing. The applicant shall participate in the hearing and be afforded an opportunity to present the project to the public and municipal officials, and answer questions about the project. The public shall be afforded an opportunity to ask questions and provide comment on the proposed project.
 - (4) Within one hundred and twenty (120) days of a completeness determination, or within forty-five (45) days after the close of any hearing, whichever is later, the Commission will make a determination whether to issue or deny the permit application.
 - (5) Throughout the permit process, the applicant shall promptly notify the *City* of any changes to the information contained in the permit application.
 - (6) Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing as determined by the Commissioner.
(Ord. 73-08. Passed 9-2-08.)

1160.06 DESIGN AND INSTALLATION.

(a) Design Safety Certification: The design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from *Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies*, or other similar certifying organizations.

(b) Uniform Construction Code: To the extent applicable, the wind energy facility shall comply with the Ohio Uniform Construction Code.

(c) Controls and Brakes: All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

(d) Electrical Components: All electrical components of the wind energy facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.

(e) Visual Appearance.

- (1) Wind turbines shall be a non-obtrusive color such as white, off-white or gray.
- (2) Wind energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
- (3) Wind turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner and operator pursuant to Chapter 1329 – Signs (Building Code).

(f) Power Lines.

- (1) On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.

(g) Warnings:

- (1) Clearly visible warning signs concerning voltage must be placed at the base of all transformers and substations.
- (2) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.

(h) Climb Prevention/Locks:

- (1) Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
- (2) All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons. (Ord. 73-08. Passed 9-2-08.)

1160.07 SETBACKS.

(a) Occupied Buildings:

- (1) Wind turbines shall be set back from the nearest occupied building, a distance not less than the normal setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
- (2) Wind turbines shall be set back from the nearest occupied building located on a non-participating landowner's property a distance of not less than two (2) times the hub height, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.

(b) **Property Lines:** All wind turbines shall be set back from the nearest property line a distance of not less than the normal setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured to the center of the wind turbine base.

(c) **Public Roads:** All wind turbines shall be set back from the nearest public road a distance not less than 1.1 times the turbine height, as measured from the right-of-way line of the nearest public road to the center of the wind turbine base.

(d) **Waiver of Setbacks:**

- (1) Non-participating landowners may waive the setback requirements in subsection (a)(2) above and subsection (b) above by signing a waiver that sets forth the applicable setback provision(s) and the proposed changes.
- (2) The written waiver shall notify the property owner(s) of the setback requirement by this Chapter, described how the proposed wind energy facility is not in compliance, and state that consent is granted for the wind energy facility to not be setback as required by this Chapter.
- (3) Any such waiver shall be recorded in the Recorder of Deeds Office for the County where the property is located. The waiver shall describe the properties benefitted and burdened, and advise all subsequent purchasers of the burdened property that the waiver of setback shall run with the land and may forever burden the subject property.
- (4) Upon application, the *City* may waive the setback requirement for public roads for good cause.
(Ord. 73-08. Passed 9-2-08.)

1160.08 HEIGHT RESTRICTIONS.

(a) Wind generation facilities' height shall be limited to the extent permitted by the Zoning District where the wind generation facility is located.

- (1) See Sections 1121.05, 1123.05, 1125.04, 1127.05, 1129.07, 1131.06, 1133.07, and 1135.08.

(b) Height shall be further limited by the provisions set forth in Section 1160.07 Setbacks.
(Ord. 73-08. Passed 9-2-08.)

1160.09 USE OF PUBLIC ROADS.

(a) The applicant shall identify all state and local public roads to be used within the *City* to transport equipment and parts for construction, operation or maintenance of the wind energy facility.

(b) The *City* Engineer or a qualified third party engineer hired by the *City* and paid for by the applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

(c) The *City* may bond the road in compliance with state regulations.

(d) Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.

(e) The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.
(Ord. 73-08. Passed 9-2-08.)

1160.10 LOCAL EMERGENCY SERVICES.

(a) The applicant shall provide a copy of the project summary and site plan to local emergency services, including the *City* Fire Department.

(b) Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy facility.
(Ord. 73-08. Passed 9-2-08.)

1160.11 NOISE AND SHADOW FLICKER.

(a) Audible sound from a wind energy facility shall not exceed limits set forth by Chapter 515 in the *Lakewood* Codified Ordinances "Noise Control."

(b) The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.

(1) The Planning Commission may evaluate noise and shadow flicker when ruling on applications for conditional use of wind generation facilities.
(Ord. 73-08. Passed 9-2-08.)

1160.12 WAIVER OF NOISE AND SHADOW FLICKER.

(a) Non-participating landowners may waive the noise and shadow flicker provisions of this Chapter by signing a waiver of their rights.

(b) The written waiver shall notify the property owner(s) of the sound or flicker limits in this Chapter, describe the impact on the property owner(s), and state that the consent is granted for the wind energy facility to not comply with the sound or flicker limit in this Chapter.

(c) Any such waiver shall be recorded in the Recorder of Deeds Office of the County where the property is located. The waiver shall describe the properties benefitted and burdened, and advise all subsequent purchasers of the burdened property that the waiver of sound or flicker limit shall run with the land and may forever burden the subject property.
(Ord. 73-08. Passed 9-2-08.)

1160.13 SIGNAL INTERFERENCE.

The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind energy facility.
(Ord. 73-08. Passed 9-2-08.)

1160.14 LIABILITY INSURANCE.

There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 Million per occurrence and \$1 Million in the aggregate. Certificates shall be made available to the *City* upon request.
(Ord. 73-08. Passed 9-2-08.)

1160.15 DECOMMISSIONING.

(a) The facility owner and operator shall, at its expense, complete decommissioning of the wind energy facility, or individual wind turbines, within twelve (12) months after the end of the useful life of the facility or individual wind turbines.

(b) The wind energy facility or individual wind turbines will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

(c) Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.

(d) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(e) An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning (“Decommissioning Costs”) without regard to the salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (“Net Decommissioning Costs”). Said estimates shall be submitted to the *City* after the first (1) year of operation and every fifth (5) year thereafter.

(f) The facility owner or operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs; provided, that at no point shall Decommissioning Funds be less than twenty-five (25) percent of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or State chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the *City*.

(g) Decommissioning Funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the *City*.

(h) If the facility owner or operator fails to complete decommissioning within the period prescribed by subsection (a) above, then the landowner shall have six (6) months to complete decommissioning.

(i) If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed by subsection (a) and (h) above, then the *City* may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to the *City* shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the *City* may take such action as necessary to implement the decommissioning plan.

(j) The escrow agent shall release the Decommissioning Funds when the facility owner or operator has demonstrated and the *City* concurs that decommissioning has been satisfactorily completed, or upon written approval of the municipality in order to implement the decommissioning plan.
(Ord. 73-08. Passed 9-2-08.)

1160.16 PUBLIC INQUIRIES AND COMPLAINT REMEDIES.

(a) The facility owner and operator shall maintain a telephone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

(b) The facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.
(Ord. 73-08. Passed 9-2-08.)

1160.17 REMEDIES.

(a) It shall be unlawful for any person, firm, or corporation to violate or fail to comply with or take any action which is contrary to the terms of this Chapter, or any permit issued under this Chapter, or cause another to violate or fail to comply, or to take any action which is contrary to the terms of this Chapter or any permit issued under this Chapter.

(b) If the *City* determines that a violation of this Chapter or the permit has occurred, the *City* shall provide written notice to any person, firm, or corporation alleged to be in violation of this Chapter or permit. If the alleged violation does not pose an immediate threat to public health or safety, the *City* and the parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of violation.

(c) If after thirty (30) days from the date of the notice of violation the *City* determines, in its discretion, that the parties have not resolved the alleged violation, the *City* may institute civil enforcement proceedings or any other remedy at law to ensure compliance with this Chapter or permit.
(Ord. 73-08. Passed 9-2-08.)

**CHAPTER 1161
Conditional Uses**

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| <p>1161.01 Purpose.</p> <p>1161.02 General standards for all conditional uses.</p> | <p>1161.03 Supplemental regulations for specific uses.</p> |
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CROSS REFERENCES

State regulations - see Ohio R.C. 4731.15
 Noise - see GEN. OFF. Ch. 515
 Residential child day care services resource registry - see
 BUS. REG. Ch. 774
 Lot area and frontage regulations - see P.& Z. 1129.05
 Minimum yard requirements - see P.& Z. 1129.06
 Gasoline stations, regulations - see P.& Z. 1129.09
 Motor vehicles sales/leasing, regulations - see P.& Z. 1129.10
 Supplemental regulations for outdoor dining facility - see P.& Z. 1129.13
 Supplemental regulations for extended business hours of
 operation - see P.& Z. 1129.16
 Mixed Use Overlay District - see P.& Z. Ch. 1135
 Landscaping and screening - see P.& Z. Ch. 1141
 Off-street parking - see P.& Z. Ch. 1143
 Non-conformities - see P.& Z. Ch. 1149
 Fence - see P.& Z. Ch. 1153
 Wireless telecommunication facilities - see P.& Z. 1159.04(b)
 Conditional use permit - see P.& Z. 1173.02
 Architectural Board of Review - see BLDG. Ch. 1325
 Signs - see BLDG. Ch. 1329

1161.01 PURPOSE.

Several unique uses require regulations intended to accommodate such uses in a reasonable and equitable manner while safeguarding the property rights of all individuals and the health, safety, and general welfare of the community. Toward these ends, this Chapter provides for a more detailed evaluation of each use conditionally permitted in a specific zoning district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, public facility requirements, and traffic generation to ensure that each proposal is consistent with the intent and objectives of the particular district in which it is to be located. Accordingly, a Conditional Use Permit shall be required for any use deemed a conditional use by this *Code*, subject to the procedures and requirements of this Chapter and Section 1173.02.
 (Ord. 91-95. Passed 10-7-96.)

1161.02 GENERAL STANDARDS FOR ALL CONDITIONAL USES.

A conditional use, and uses accessory to such conditional uses, shall be permitted where the use is identified by this *Code* as a conditionally permitted use, or is found by the Commission to be a substantially similar use, in the zoning district in which the use is located. In addition to any specific regulations required by this *Code* or the Ordinances, the Commission shall find:

- (a) That the conditional use will be consistent with the general objectives, or any specific objectives, for the zoning district in which it is located, as set forth in this *Code* and the *Vision*.
- (b) That the conditional use will be designed, constructed, operated and maintained so as not to be detrimental to or endanger the public health, safety, or general welfare.
- (c) That the conditional use will not change the essential character of the general vicinity in which it is located.
- (d) That the conditional use will not be injurious to the uses permitted by right in the immediate vicinity, nor substantially diminish or impair property values within said vicinity.
- (e) That establishment of the conditional use will not impede the normal and orderly development of uses permitted by right in the immediate vicinity.
- (f) That adequate utilities and public facilities and services, such as streets and sewer and water services, are or will be provided; and that establishment of the conditional use will not require expenditures of public funds for such public facilities or services.
- (g) That adequate measures have been taken to minimize traffic congestion on public streets.
- (h) That the conditional use will not suffer substantial hardship in the future due to the conditional use being surrounded by uses permitted by right, which are incompatible with the conditional use.
- (i) That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located as well as the specific conditions set forth in Section 1161.03.
- (j) A Conditional Use Permit issued pursuant to this Chapter may not be transferred to any other person or address.
(Ord. 91-95. Passed 10-7-96.)
- (k) Notwithstanding the above provisions, a Conditional Use Permit issued pursuant to this Chapter for a Mixed Use Overlay development may be transferred to another person or address provided that the regulations in Chapter 1135, Mixed Use Overlay District, and all other provisions of the Ordinances and this *Code* that are not in conflict with Chapter 1135 have been satisfied.
(Ord. 61-04. Passed 7-6-04.)

Notwithstanding anything in this Chapter or this Section to the contrary, where the Commissioner determines, after compliance with the requirements of Section 1173.02, that a permit holder seeking renewal of a permit issued pursuant to this Section has remained in compliance with the conditions of said permit, the Commissioner may issue such renewal.
(Ord. 91-95. Passed 10-7-96.)

1161.03 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.

In addition to the general standards established in Section 1161.02, the following specific conditions shall apply to each use or class of uses listed in this Section 1161.03. Nothing in this Section shall prohibit the Commission from prescribing supplementary conditions and safeguards in addition to these requirements, or where no specific conditions are stated.

- (a) Accessory Parking. In a residential district, accessory parking for a lot in a commercial district may be permitted as a conditional use provided that:
- (1) The lot on which the proposed use is to be located abuts the commercial lot to which it is accessory;
 - (2) The parking lot shall be used only for the parking of non-commercial passenger motor vehicles; and
(Ord. 91-95. Passed 10-7-96.)
 - (3) The proposed parking lot conforms to the design requirements set forth in Chapter 1325 of the Building Code and has been approved by the Architectural Board of Review prior to the demolition of any existing single-, two- or three-family dwelling, in the R1L, R1M, R1H, R2, ML, MH and L zoning districts, on the proposed lot. In addition, if applicable, approval by the Commission for conditional use as accessory parking under this subsection must also be approved prior to the demolition of any existing single-, two- or three-family dwelling on the proposed lot. If such lot is substantially vacant due to demolition prior to the time of application for parking lot design approval and conditional use approval, the lot shall have been vacant for at least twenty-four (24) months preceding the application unless the Commission grants a waiver from such time requirement based on reasonable causes for such demolition by an owner, or prior owner, beyond his/her reasonable control, such as fire or other source of property damage or loss.
(Ord. 24-98. Passed 5-18-98.)
- When determining whether to grant a conditional use permit for accessory parking, the Commission may limit the hours of operation of the proposed conditional use.
- (b) Animal Clinics/Hospitals, Veterinarian Offices, and Grooming Services. In a C2 Retail District, animal clinics/hospitals, veterinarian offices, and grooming services may be permitted as a conditional use provided that:
- (1) There shall be four (4) off-street parking spaces for each veterinarian or groomer practicing at the location of the proposed use;
 - (2) No outside animal runs, stalls, or cages shall be permitted on the lot; and
 - (3) The proposed use shall not be located in any structure housing a residential use.
(Ord. 91-95. Passed 10-7-96.)
- (c) Bed and Breakfast Establishment. In any commercial district or multiple-family residential district, a bed and breakfast establishment may be permitted as a conditionally permitted use subject to all or any of the following:
- (1) The building in which a bed and breakfast establishment is located is a single-family dwelling which serves as the principal residence of the applicant and is recognized as architecturally, historically or culturally significant;
 - (2) The owner/operator of a bed and breakfast establishment shall live full-time on the premises. Such owner/operator shall be the record owner of no less than fifty percent (50%) interest of the property in question;
 - (3) The architectural integrity of the structure, and arrangement of existing interior space must be maintained;
 - (4) Only minimal outward modification is allowed and only if compatible with neighboring structures;

- (5) There shall be no more than three (3) guest rooms within a single-family dwelling that are utilized by bed and breakfast guest(s). A guest room shall contain no less than 100 square feet of living space, not including closets, for two (2) guests and thirty square feet for each additional guest up to a total of four (4) guests per room;
- (6) Bedrooms shall be an existing part of the primary residential structure and not specifically constructed or remodeled for rental purposes;
- (7) Each paying guest may stay at a bed and breakfast establishment for not more than three (3) consecutive nights at any single visit or more than a total of fourteen (14) nights in any given calendar year;
- (8) Parking for all vehicles, including vehicles owned by the owner/operator shall be in the garage or rear yard on an approved surface improved with concrete or asphalt;
- (9) There shall be at least one (1) off-street parking space for each guest room;
- (10) Only one (1) meal shall be served to each guest of the bed and breakfast establishment and that meal shall be breakfast. The sale or service of alcoholic beverages to paying guests is prohibited in a bed and breakfast establishment;
- (11) Only one (1) kitchen facility shall be permitted per structure for which a conditional use permit is granted to operate a bed and breakfast establishment. No cooking facilities shall be permitted in individual guest rooms nor shall guests have access to kitchen facilities for the purpose of preparing meals;
- (12) A minimum of one (1) full bathroom, including tub/shower, toilet and sink, shall be required for every two (2) guest rooms to be available for the exclusive use of bed and breakfast paying guest(s);
- (13) Rental of the bed and breakfast establishment for special gatherings such as wedding receptions and parties shall be prohibited;
- (14) One (1) on-premise sign shall be permitted for each bed and breakfast establishment not to exceed two (2) square feet in area. The sign shall not be internally illuminated. Such sign(s) shall be limited to three (3) colors. The applicable standards of Chapter 1329 of the Building Code shall apply unless otherwise superseded by this section;
- (15) No individual(s) who are nonresidents of the dwelling may be employed in the operation of a bed and breakfast establishment;
- (16) The Bed and Breakfast establishment, shall within three (3) months of commencing operation, be listed with the Ohio Bed and Breakfast Association or similar recognized listing agency;
- (17) The building complies with all state and local laws, including but not limited to *City* Fire, Health, and Housing Codes and the Ohio Building Code regulations for R-1 Use Group Structures;
- (18) A Conditional Use Permit issued pursuant to this Section 1161.03(c) shall expire thirty-six (36) months after the date of issuance.

Notwithstanding anything in this Chapter or this Section to the contrary, where the Commissioner determines, after compliance with the requirements of Section 1173.02, that a permit holder seeking renewal of a permit issued pursuant to this Section remains in compliance with the conditions of said permit, the Commissioner may issue such renewal.

(Ord. 124-05. Passed 2-6-06.)

- (d) Convenience Food Shop or Delicatessen, Beauty and Barber Shops. In an ML Multiple-Family, Low Density, District, a convenience food shop or delicatessen may be permitted as a conditional use provided that:
- (1) The apartment building in which the facility is located shall have not less than 350 dwelling units;
 - (2) The facility shall be permitted only for the use by tenants of the building in which it is located, and shall not be open to the public;
 - (3) The facility shall not occupy in excess of 1,200 square feet of floor area;
 - (4) Merchandise shall be limited to standard food and drug items and shall not include hardware, or other merchandise not generally related to such facility; and,
 - (5) No advertising of any kind shall be permitted on the exterior of the building, or on the land on which it is located.
- (e) Type A Child Day-Care. In any multi-family residential district, a Type A Child Day-Care in a single-family dwelling may be permitted as a conditional use provided that:
- (1) The lot on which the proposed day-care use is located is not within 500 feet, including a public or private right-of-way, of a lot on which an existing Type A or Type B day-care use is located, including a lot fronting a different street;
 - (2) The provider of residential child day-care is registered with the *City* pursuant to Chapter 774 of the Business Regulation Code; and
 - (3) At least one additional off-street parking space is provided, in addition to the parking requirements of Chapter 1143.
- (f) Home Occupation, Type B. In a residential or commercial district, a Type B Home Occupation may be permitted as a conditional use provided that:
- (1) The Type B Home Occupation may be permitted in a one- or two-family dwelling; the Home Occupation shall not interfere with the residential use of the non-applicant;
 - (2) The non-resident employee and customers may come to the home between the hours of 8:00 a.m. and 9:00 p.m. Monday through Saturday, and 12:00 noon and 6:00 p.m. Sunday; customers may come to the home by pre-arrangement only;
 - (3) Off-street parking to meet the standards specified in Schedule 1143.05 shall be provided;
 - (4) The Type B Home Occupation shall not generate substantially more pedestrian or vehicular traffic than that generated by a residential use; and
 - (5) A Conditional Use Permit issued pursuant to this Section 1161.03(f) shall expire thirty-six (36) months after the date of issuance.

Notwithstanding anything in this Chapter or this Section to the contrary, where the Commissioner determines, after compliance with the requirements of Section 1173.02, that a permit holder seeking renewal of a permit issued pursuant to this Section remains in compliance with the conditions of said permit, the Commissioner may issue such renewal.

- (g) Gasoline Stations. In a C2 Retail District, a gasoline station may be permitted as a conditional use where the proposed use complies with the requirements set forth in Section 1129.09.
(Ord. 91-95. Passed 10-7-96.)
- (h) Manufacturing, Processing, Assembly, Packaging Plant and Light Industrial.
- (1) In a C3 General Business District, manufacturing, processing, assembly, and packaging plants may be permitted as conditionally permitted uses provided that:
- A. There will be no emissions of odors, dust, smoke, gas, or fumes from the premises on which the proposed use is to be located;
 - B. There will be no vibrations or noise created by the proposed use which will be transmitted to abutting properties;
 - C. Storage of raw materials, partially finished, or unfinished products shall be entirely within the principal structure;
 - D. The proposed use will not generate or cause a substantial increase of truck traffic;
 - E. No variances to the off-street parking requirements of Chapter 1143 are required; and
 - F. Where necessary, an off-street loading and unloading area will be provided pursuant to Schedule 1143.05.
- (2) In a C2 Retail District, light industrial may be permitted as a conditionally permitted use provided that:
- A. There will be no emissions of odors, dust, smoke, gas, or fumes from the premises on which the proposed use is to be located;
 - B. There will be no vibrations or noise created by the proposed use which will be transmitted to abutting properties;
 - C. Storage of raw materials, partially finished, or unfinished products shall be entirely within the principal structure;
 - D. The proposed use will not generate or cause a substantial increase of truck traffic;
 - E. No variance(s) to the off-street parking requirements of Chapter 1143 are required; and
 - F. Where necessary, an off-street loading and unloading area will be provided pursuant to Schedule 1143.05.
(Ord. 24-98. Passed 5-18-98.)
- (i) Motor Vehicle Rental or Leasing Agency. In any commercial district, a motor vehicle rental or leasing agency which does not engage in the sale of new or used motor vehicles may be permitted as a conditionally permitted use provided that:
- (1) No services customarily associated with a gasoline station are provided or available on the lot;
 - (2) No motor vehicle repair services of any type, including body repair, are provided or available on the lot;
 - (3) Landscaping and screening, approved by the Architectural Board of Review pursuant to Chapter 1141, is provided; and
 - (4) Traffic patterns are designed so as not to substantially interfere with residential uses in the surrounding area.

- (j) Motor Vehicle Repair/Body Shop. In a C2 Retail District or C3 General Business District, a motor vehicle repair/body shop may be permitted as a conditionally permitted use provided that:
- (1) The width of the lot on which the proposed use is to be located shall be not less than 150 feet at the building line, where the proposed conditional use is to be located on a corner lot the herein lot-width requirement shall apply to all sides fronting a public or private right-of-way;
 - (2) The area of the lot on which the proposed use is to be located shall be not less than 22,500 square feet;
 - (3) All activities, including cleaning, washing, and drying operations shall take place inside the principal structure;
 - (4) No merchandise may be displayed outside the principal structure;
 - (5) No unlicensed or inoperative motor vehicle shall be permitted on the property outside of the principal structure for more than forty-eight (48) hours;
 - (6) Where the proposed use includes body and fender repair or painting, there will be no emissions of odors, dust, smoke, gas, or fumes from the premises on which the proposed use is to be located;
 - (7) All outdoor wiring, including electrical and telephone wiring, shall be installed underground;
 - (8) A landscape area at least five (5) feet wide shall be provided on the subject lot where the lot abuts a public right-of-way, except where interrupted by driveways; and
 - (9) Landscaping and screening, approved by the Architectural Board of Review pursuant to Chapter 1141, is provided; where such use abuts a residential district or use, said landscaped area shall be not less than ten (10) feet wide.
 - (10) A motor vehicle repair/body shop may be operated in conjunction with a gasoline station as a conditional use provided the proposed use complies with the requirements of this subsection (j) and the requirements of Section 1129.09.
- (k) Motor Vehicle Sales and Leasing. In a C2 Retail District, motor vehicle sales and leasing may be permitted as a conditionally permitted use where the proposed use complies with the requirements set forth in Section 1129.10.
- (l) Parking Facilities. In any multi-family district, parking facilities may be permitted as a conditionally permitted use provided that:
- (1) The lot on which the facility is located abuts a lot containing a multi-family use under the same ownership;
 - (2) Parking shall be by permit only, no kiosk shall be erected; and
 - (3) Parking shall be limited to non-commercial vehicles.
- (m) Places of Worship. In any commercial district and multi-family district, a place of worship may be permitted as a conditional use provided that:
- (1) The place of worship shall be used only for the purposes of the local congregation or organization and shall not be operated as or in connection with any commercial use, except that the renting of rooms for community service purpose (i.e., day-care and Alcoholics Anonymous meetings) is permitted;

- (2) No variances to the off-street parking requirements of Chapter 1143 are required; and
 - (3) Landscaping and screening, approved by the Architectural Board of Review pursuant to Chapter 1141, is provided; where such use abuts a residential district or use, said landscaped area shall be not less than ten (10) feet wide. (Ord. 91-95. Passed 10-7-96.)
- (n) Professional, Medical, and General Business Offices. In an ML Multiple-Family, Low Density, District or MH Multiple-Family, High Density, District, a professional, medical, or general business office may be permitted as a conditional use provided that:
- (1) The proposed use replaces a use determined by the Commission to be a higher use than the existing use being vacated;
 - (2) The proposed use is located only on the ground floor of the building;
 - (3) No variances are required to accommodate the proposed use; and
 - (4) The required off-street parking for all occupancies is available on the same parcel. (Ord. 90-04. Passed 11-1-04.)
- (o) Re-Use of an Existing Non-Conforming Structure. In an R1 Residential Single-Family or R2 Residential Single- and Two-Family District, an existing non-conforming structure found by the Lakewood Heritage Advisory Board to be of historical value may, as a conditional use, be converted to a multi-family use and, in any multi-family district, such a structure may be converted to a mixed use or office use, where the Commission finds:
- (1) That re-use of the existing structure is preferable to destruction and redevelopment of the site;
 - (2) That the proposed use will not be more intense than the existing non-conforming use;
 - (3) That landscaping and screening, approved by the Architectural Board of Review pursuant to Chapter 1141, will be provided;
 - (4) That the proposed renovation will be in harmony with the historic character of the structure; and
 - (5) That the proposed use will comply with the parking requirements of Chapter 1143.
- (p) Restaurant - Fast Food. In a C1 Office District, a fast-food restaurant preparing meals for consumption on or off the premises and with or without drive-through facilities for motor vehicles may be permitted as a conditional use provided that:
- (1) The width of the lot on which the proposed use is to be located shall be not less than 150 feet at the building line;
 - (2) The area of the lot on which the proposed use is to be located shall be not less than 20,000 square feet;
 - (3) No variances to the off-street parking requirements of Chapter 1143 are required;
 - (4) Landscaping and screening, approved by the Architectural Board of Review pursuant to Chapter 1141, is provided; where such use abuts a residential district or use, said landscaped area shall be not less than ten (10) feet wide; and

- (5) No merchandise for sale may be stored or displayed outside the principal structure.
- (q) Roomers. Roomers may be permitted in the single- and two-family residential districts as a conditional use provided that:
- (1) There shall be accommodations for not more than two (2) roomers in a single-family dwelling and one (1) roomer per dwelling unit in a two-family dwelling;
 - (2) There shall be only one (1) roomer per sleeping room;
 - (3) There shall be no cooking or eating facilities in the room(s), nor shall kitchen privileges or a community kitchen be provided;
 - (4) One (1) paved off-street parking space shall be provided in the rear yard for each roomer;
 - (5) There shall be no signs on the property advertising room(s) for rent;
 - (6) The building in which the rooms are to be let shall be a single- or two-family dwelling and shall be the permanent residence of the person requesting the conditionally permitted use; and
 - (7) The conditionally permitted use shall not be transferable.
- (r) Groups/Convalescent/Nursing/Assisted Living. In a C1 Office District and a C2 Retail District, group/convalescent/nursing/assisted living facilities may be permitted as a conditionally permitted use where the proposed use complies with all applicable local, State, and Federal laws.
(Ord. 91-95. Passed 10-7-96.)
- (s) Wireless Telecommunication Tower. In an Industrial District, a wireless telecommunication tower may be permitted as a conditionally permitted use where the proposed use complies with all the requirements of subsection 1159.04(b) of the *Code*.
(Ord. 24-98. Passed 5-18-98.)
- (t) Outdoor/Seasonal Dining Facility. Any person operating a restaurant, bar, tavern, or nightclub use (as used in this section, a "Restaurant Use") in the C1 Office, C2 Retail, C3 General Business, C4 Public School, ML and MH Multiple-Family Residential, PD Planned Development or I Industrial District (as used in this section, and together with any successors or assigns, an "Applicant") may be permitted to operate an Outdoor/Seasonal Dining Facility as a conditionally permitted accessory use subject to the following:
- (1) Upon the Applicant's application, filed with the Director of Planning (as used in this section, the "Director"), the Outdoor/Seasonal Dining Facility design shall be reviewed and approved by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code. The Outdoor/Seasonal Dining Facility should be attractive and in accordance with the Architectural Board of Review's Outdoor Dining Design Guidelines and should promote pedestrian safety and a retail friendly atmosphere. The Applicant must comply with all applicable city, state and federal laws and regulations at all times. Applications for the Outdoor/Seasonal Dining Facility conditional use permit shall include the following items:
 - A. A completed and signed Outdoor/Seasonal Dining Facility conditional use permit application form;
 - B. A written description of the proposal and photographs of the area to be occupied by the proposed outdoor dining area;

- C. A detailed, labeled and scaled site plan and elevations of the location of the outdoor dining area, number and arrangement of tables and chairs, barriers, means of ingress and egress, sidewalk, above-ground utilities and any other sidewalk obstruction, parking and planter areas;
- D. Manufacturer's information and cut sheets on all proposed tables, chairs, barriers, lighting and accessory furniture;
- E. A signed statement by the owner of the building confirming the ownership of the building and, if the owner is not the Applicant, granting permission to the Applicant to pursue the conditional use permit;
- F. A detailed description of the type of food and beverage served at the establishment;
- G. When applicable, a copy of the Applicant's liquor permit and any other documentation giving the Applicant permission to serve alcohol;
- H. Copies of all required Cuyahoga County Board of Health documentation necessary to operate the facility; and
- I. Any additional documents reasonably deemed necessary by the Director.

Incomplete applications or applications deemed insufficient by the Director will not be accepted for review.

- (2) The Outdoor/Seasonal Dining Facility shall be located directly adjacent to the lawfully operating Restaurant Use with a valid food vendor's license and be directly under Applicant's control. The Outdoor/Seasonal Dining Facility may be located immediately adjacent to the front of the Restaurant Use, on the side or rear of the Restaurant Use or as approved by the Planning Commission.
- (3) The floor space of the Outdoor/Seasonal Dining Facility and any walkway connecting such facility with the Restaurant Use and the parking lot or any public or private sidewalk shall be constructed of an approved hard surface material.
- (4) The Applicant must keep the Outdoor/Seasonal Dining Facility sanitary, neat and clean at all times, free from accumulation of food, litter, snow, ice and other potentially dangerous or unsanitary matter.
- (5) The Outdoor/Seasonal Dining Facility must be in compliance with the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. (as used in this section, the "ADA"), and at a minimum allow for 5 feet of continuous pedestrian access along the public sidewalk free from all obstruction, and must not create any pedestrian hazards.
- (6) An Applicant whose Restaurant Use is at an intersection of public streets shall not locate the Outdoor/Seasonal Dining Facility in a manner that will impede vehicular sight distance at that intersection. Setbacks from the intersection for the outdoor dining area will be determined by the Planning Commission on an individual basis specific to individual site conditions after review and recommendation by the Director, Building Commissioner, Police Chief and Fire Chief.

- (7) The total number of seats for the Outdoor/Seasonal Dining Facility shall not exceed 25% of the maximum number of previously approved indoor seats for the Restaurant Use. The final number of seats for the Outdoor/Seasonal Dining Facility will be determined by the Planning Commission upon review of the amount of space available, the ADA and the Building Code.
- (8) Applicants who serve alcoholic beverages as part of their Restaurant Use must meet all requirements of the Ohio Department of Commerce, Division of Liquor Control, and the following standards:
- A. Where an Outdoor/Seasonal Dining Facility or any portion of an Outdoor/Seasonal Dining Facility is located on public property, the owner of the facility shall sign a Use of Public Property Agreement approved by the Director of Law that indemnifies and holds the City harmless from any claims, liability or damages arising from the operation or location of the Outdoor/Seasonal Dining Facility, and shall provide an insurance policy in an amount approved by the Director of Law with the City named as an additional insured. Upon approval of the Outdoor/Seasonal Dining Facility conditional use by the Planning Commission, the Director is authorized to enter into the Use of Public Property Agreement on behalf of the City.
 - B. The Outdoor/Seasonal Dining Facility must be enclosed with a sturdy barrier in compliance with the Building Code, the ADA, the Outdoor Dining Design Guidelines and any additional directives of the Chief of Police. Said barrier shall not be less than 36 inches in height and shall clearly designate the area where food and/or beverages shall be permitted to be served and consumed.
 - C. The entrance to the Outdoor/Seasonal Dining Facility must be easily recognizable and adjacent to or as close to a publicly used door of the Restaurant Use as is commercially practicable in the Planning Commission's determination.
 - D. Food Service, as defined in Section 1103.02 of this *Code*, shall be offered at all times when alcoholic beverages are served in the Outdoor/Seasonal Dining Facility.
 - E. Applicants shall not permit customers to carry alcoholic beverages from the Outdoor/Seasonal Dining Facility to any place outside the Outdoor/Seasonal Dining Facility except the adjacent Restaurant Use, and the facility shall be designed in a way so as to maintain compliance with this provision.
- (9) Applicants who do not serve alcoholic beverages as part of their Restaurant Use must meet the following standards:
- A. Where an Outdoor/Seasonal Dining Facility or any portion of an Outdoor/Seasonal Dining Facility is located on public property, the owner of the facility shall sign a Use of Public Property Agreement approved by the Director of Law that indemnifies and holds the City harmless from any claims, liability or damages arising from the operation or location of the Outdoor/Seasonal Dining Facility, and shall provide an insurance policy in an amount approved by the Director of Law with the City named as an additional insured. Upon approval of the Outdoor/Seasonal Dining Facility conditional use by the Planning Commission, the Director is authorized to enter into the Use of Public Property Agreement on behalf of the City.

- B. A barrier on some or all sides of the Outdoor/Seasonal Dining Facility may be required. The Planning Commission will make a determination as to the extent and location of a barrier necessary for the Outdoor/Seasonal Dining Facility. Any such barrier shall be in accordance with the Outdoor Dining Design Guidelines.
- (10) The Outdoor/Seasonal Dining Facility must have adequate illumination during evening hours in accordance with the Outdoor Dining Design Guidelines. All lighting will be designed to minimize the intrusive effect of glare and illumination upon abutting areas, especially residential properties.
 - (11) Buffering with landscaping or fencing of the Outdoor/Seasonal Dining Facility, if the facility is adjacent to residential or sensitive uses, may be required. Buffering requirements will be determined by the Planning Commission and shall be in accordance with the Outdoor Dining Design Guidelines.
 - (12) An Outdoor/Seasonal Dining Facility need not require additional off-street parking unless the Planning Commission determines otherwise, or unless the Outdoor/Seasonal Dining Facility creates an overflow parking problem on adjacent public streets. Should a parking problem arise due to the Outdoor/Seasonal Dining Facility, the Director shall require the Applicant to make provisions for sufficient off-street parking on nearby non-residential properties.
 - (13) Furniture and enclosures located within the Outdoor/Seasonal Dining Facility may not be stored on the public right-of-way and must be removed entirely from the right-of-way between October 31 and March 31. All furniture and fixtures used in an Outdoor/Seasonal Dining Facility in the public right-of-way must be readily removable without damage to the surface of the right-of-way and may only remain in the public right-of-way outside hours of operation with prior approval of the Planning Commission.
 - (14) An Outdoor/Seasonal Dining Facility shall operate only between the hours of 11:00 a.m. and 10:00 p.m. Sunday through Thursday, 11:00 a.m. Friday to 1:00 a.m. Saturday and 11:00 a.m. Saturday to 1:00 a.m. Sunday, only between the months of April through and inclusive of October. The limitations set forth herein, and any additional limitations placed on hours of operation as may be determined by the Planning Commission, are designed to assure adequate peace, quiet and serenity in the evening and morning hours during which residents of the City are entitled to enjoy a period of rest and relaxation without intrusion from the possibilities of excessive noise and activity in adjacent areas.
 - (15) Outside entertainment, whether by band, orchestra, instrument, musician, singer, radio, television, loudspeaker, microphone, recital or any other individual, group or mechanical device, shall only be permitted in an Outdoor/Seasonal Dining Facility pursuant to Chapter 515 of the Ordinances of the City. The Planning Commission may prohibit or provide for other restrictions and conditions related to such entertainment as it deems necessary to protect the surrounding neighborhood.
 - (16) The Outdoor/Seasonal Dining Facility shall comply with the requirements of the state smoking and tobacco use laws.

- (17) The Director may require adjustments, after approval of the Planning Commission, to the layout, dimensions, or distance from the property line of any Outdoor/Seasonal Dining Facility in order to ensure pedestrian safety and a retail-friendly atmosphere.
 - (18) Notwithstanding anything in this Chapter or Section to the contrary, any Outdoor/Seasonal Dining Facility conditional use permit application shall be heard by the Planning Commission and, if approved, shall expire 12 months from the date of issuance. Subsequent renewal of the conditional use permit may be made administratively by the Director if no significant modifications to the conditions of the permit have been proposed and no violations of the *Code* have been determined. Determination of renewal status is at the discretion of the Director. Renewal applications must be submitted in writing at least 30 days prior to expiration of permit. The conditional use permit for an Outdoor/Seasonal Dining Facility is non-transferable.
 - (19) Notwithstanding anything in this Chapter or Section to the contrary, any conditional use permit granted for the Outdoor/Seasonal Dining Facility may be revoked by the Planning Commission after referral to the Planning Commission by the Director and a public hearing. Notice of such hearing shall be sent to the Applicant and to others pursuant to Section 1173.07(b)(2) of this *Code* as if a zoning change were requested. The Director shall have the authority to cancel a Use of Public Property Agreement upon 30 days' written notice. Once a notice of cancellation of the Use of Public Property Agreement has been issued, the owner of the restaurant has 5 business days to remove any portion of the Outdoor/Seasonal Dining Facility that is in the public right-of-way and restore the public right-of-way to the condition in which it existed prior to the creation of the Outdoor/Seasonal Dining Facility.
(Ord. 70-07. Passed 3-2-09.)
- (u) 24-Hour Operation. In the C1 Office, C2 Retail and C3 General Business Districts a 24-hour operation may be permitted as a conditionally permitted use subject to all or any of the following:
- (1) Parking areas shall be configured so as to prevent vehicular headlights from shining into adjacent residentially zoned and/or used property. Parking areas configured such that vehicular headlights are directed toward public rights-of-way across from residentially zoned and/or used property shall provide continuous screening and shall conform to the design requirements set forth in Chapter 1325 of the Building Code and be approved by the Architectural Board of Review. Landscaping and screening shall be continuously maintained and promptly restored if necessary pursuant to Chapter 1141.
 - (2) Ingress and egress drives and primary circulation lanes shall be located away from residential areas where practical to minimize vehicular traffic and noise which may become a nuisance to adjacent residential areas.
 - (3) All building entrances intended to be utilized by patrons shall be located on the side(s) of the building which does not abut residentially zoned and/or used property, whenever possible, to minimize the potential for patrons to congregate and create noise which may become a nuisance to adjacent residential areas.

- (4) Any 24-hour operation including an outdoor dining facility shall conform to the design requirements and other regulations pursuant to subsection 1163.03(t) hereof.
- (5) All exterior site and building lighting, which shall be provided, is approved by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code, and such design shall minimize the intrusive effect of glare and illumination upon any abutting areas especially residential.
- (6) Any 24-hour operation adjacent to a residential district and/or use shall be enclosed with a six (6) foot high solid fence along such abutting property lines and be approved by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code. Such fence may be increased in height where the Commission deems necessary and be approved by the Board pursuant to Chapter 1153.
- (7) Delivery trucks shall only be permitted between the hours of 8:00 a.m. and 9:00 p.m. pursuant to Chapter 515 of the Codified Ordinances. The Commission may prohibit or provide for other restrictions and conditions related to such deliveries as it deems necessary to protect the surrounding neighborhood.
- (8) Loading, unloading, trash removal, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects shall only be permitted between the hours of 8:00 a.m. and 9:00 p.m. pursuant to Chapter 515 of the Codified Ordinances. The Commission may prohibit or provide for other restrictions and conditions related to such deliveries and trash removal as it deems necessary to protect the surrounding neighborhood.
- (9) Crowd control or other security or safety measures and means of control for sounds vibrations or odors may be required as deemed necessary by the Commission.
- (10) For any 24-hour operation, in order to address specific conditions, the Commission may limit hours of operation during certain days of the week month or year as deemed necessary to protect the surrounding neighborhood.
- (11) A Conditional Use Permit issued pursuant to subsection 1161.03(u) shall expire twelve (12) months after the date of issuance.

Notwithstanding anything in this Chapter or this Section to the contrary where the Commissioner determines after compliance with the requirements of Section 1173.02, that a permit holder seeking renewal of a permit issued pursuant to this Section has remained in compliance with the conditions of said permit the Commissioner may issue such renewal.

(Ord. 40-00. Passed 7-17-00.)

- (v) Mixed Use Overlay District. In the C1 Office District, C2 Retail District, C3 General Business, C4 Public School District, and the MH, Multiple-Family, High Density, Residential District, a Mixed Use Overlay development may be permitted as a conditional use, provided that the regulations in Chapter 1135, and all other provisions of the Ordinances and this *Code* that are not in conflict with Chapter 1135 have been satisfied.

- (w) Extended Hours of Operation. In the C1 Office District, C2 Retail District, C3 General Business and C4 Public School District, a business may be permitted as a conditionally permitted use with extended hours of operation after 12:00 a.m. or before 6:00 a.m. subject to all or any of the following:
- (1) Parking areas shall be configured so as to prevent vehicular headlights from shining into adjacent residentially zoned and/or used property. Parking areas configured such that vehicular headlights are directed toward public rights-of-way across from residentially zoned and/or used property shall provide continuous screening and shall conform to the design requirements set forth in Chapter 1325 of the Building Code and be approved by the Architectural Board of Review. Landscaping and screening shall be continuously maintained and promptly restored, if necessary, pursuant to Chapter 1141.
 - (2) Ingress and egress drives and primary circulation lanes shall be located away from residential areas where practical; to minimize vehicular traffic and noise which may become a nuisance to adjacent residential areas.
 - (3) All building entrances intended to be utilized by patrons shall be located on the side(s) of the building which does not abut residentially zoned and/or used property, whenever possible, to minimize the potential for patrons to congregate and create noise which may become a nuisance to adjacent residential areas.
 - (4) Any extended hours of operation business including an outdoor/seasonal dining facility shall conform to the design requirements and other regulations pursuant to Section 1161.03(t).
 - (5) All exterior site and building lighting, which shall be provided, is approved by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code, and such design shall minimize the intrusive effect of glare and illumination upon any abutting areas, especially residential.
 - (6) Any extended hours of operation business adjacent to a residential district and/or use shall be enclosed with a six (6) foot high solid fence along such abutting property lines and be approved by the Architectural Board of Review pursuant to Chapter 1325. Such fence may be increased in height where the Commission deems necessary and be approved by the Board pursuant to Chapter 1153.
 - (7) Delivery trucks shall only be permitted between the hours of 8:00 a.m. and 9:00 p.m. pursuant to Chapter 515 of the Ordinances. The Commission may prohibit or provide for other restrictions and conditions related to such deliveries, as it deems necessary to protect the surrounding neighborhood.
 - (8) Crowd control or other security or safety measures and means of control for sounds, vibrations or odors may be required as deemed necessary by the Commission.
 - (9) For any extended hours of operation business, in order to address specific conditions, the Commission may limit hours of operation during certain days of the week, month or year as deemed necessary to protect the surrounding neighborhood.
 - (10) A Conditional Use Permit issued pursuant to subsection 1161.03(w) shall expire twelve (12) months after the date of issuance.

Notwithstanding anything in this Chapter or this Section to the contrary, where the Commissioner determines, after compliance with the requirements of Section 1173.02, that a permit holder seeking renewal of a permit issued pursuant to this Section has remained in compliance with the conditions of said permit, the Commissioner may issue such renewal.

(Ord. 43-08. Passed 4-21-08.)

- (x) Residential Wind Turbines. In a residential district, residential wind turbines may be permitted as a conditionally permitted use where the proposed use complies with all applicable local, State and Federal laws.

(Ord. 73-08. Passed 9-2-08.)

CHAPTER 1163
Sexually Oriented Businesses

<p>1163.01 Purpose.</p> <p>1163.02 Definitions.</p> <p>1163.03 Classifications.</p> <p>1163.04 Location of sexually oriented businesses.</p> <p>1163.05 Design guidelines for sexually oriented businesses.</p>	<p>1163.06 Off-street parking.</p> <p>1163.07 Sign regulations for sexually oriented businesses.</p> <p>1163.08 Licensing.</p> <p>1163.09 Severability.</p>
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CROSS REFERENCES

Licensing - see BUS. REG. Ch. 777
 Definitions - see P.& Z. 1103.02
 Commercial Districts - see P.& Z. Ch. 1129
 Landscaping and screening - see P.& Z. Ch. 1141
 Off-street parking - see P.& Z. Ch. 1143

1163.01 PURPOSE.

(a) Purpose. It is the purpose of this Chapter to regulate SEXUALLY ORIENTED BUSINESSES in order to promote the health, safety, morals, and general welfare of the citizens of the *City* and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of SEXUALLY ORIENTED BUSINESSES within the *City*. The provisions of this Chapter do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.

(b) Findings. The City Council has received substantial evidence concerning the association of negative secondary effects with SEXUALLY ORIENTED BUSINESSES in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Tucson, Arizona; Los Angeles, California; Whittier, California; Indianapolis, Indiana; Minneapolis, Minnesota; St. Paul, Minnesota; New York, New York; Cleveland, Ohio; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Houston, Texas; and Seattle, Washington. (Ord. 25-01. Passed 7-2-01.)

1163.02 DEFINITIONS.

(a) **ADULT ARCADE** means any place to which the public is permitted or invited where one (1) or more “video booths” and/or “live viewing booths” are available to patrons where the images shown and/or live entertainment presented are characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas”.

(b) **ADULT CABARET** means a nightclub, bar, restaurant, or similar commercial establishment that as a substantial or significant portion of its business regularly features:

- (1) Persons who appear in areas of the establishment open to patrons in a “state of nudity” or “state of semi-nudity” so as to expose to view “specified anatomical areas”; or
- (2) Any live entertainment, exhibition, performance, or dance by persons whose entertainment, exhibition, performance, or dance is characterized by an emphasis on the depiction or description of “specified anatomical areas” or “specified sexual activities”; or
- (3) “Adult media.”

(c) **ADULT MEDIA** means magazines, books, photographic reproductions, videotapes, movies, slides, compact discs in any format (e.g., cd-rom, cd-r, cd-rw), digital video discs in any format (e.g., dvd), other devices used to reproduce or record computer images, or other print, video, film, electronic, computer-based, analog, or digital media characterized by an emphasis on matter depicting, describing or related to “specified sexual activities” or “specified anatomical areas.”

(d) **ADULT MEDIA STORE** means an establishment that rents and/or sells adult media and that meets any of the following tests:

- (1) More than forty percent (40%) of the gross public floor area is devoted to adult media; or
- (2) More than forty percent (40%) of the stock in trade consists of adult media; or
- (3) A media store which advertises or holds itself out in any forum as a **SEXUALLY ORIENTED BUSINESS** by use of such terms as “X-rated,” “XXX,” “adult,” “sex,” “nude,” or otherwise advertises or holds itself out as a **SEXUALLY ORIENTED BUSINESS**.

(e) **ADULT MOTEL** means a hotel, motel or similar commercial establishment as regulated by Licensing Ordinance 28-01; Section 777.17, Prohibition of Adult Motels, which:

- (1) Offers accommodations to the public for any form of consideration; and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right of way which advertises the availability of this sex-oriented type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

(f) **ADULT MOTION PICTURE THEATER** means a commercial establishment occupying a building or portion of a building (including any portion of a building which contains more than 150 square feet) where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions, or other projected images are regularly shown, if such establishment as a prevailing practice excludes minors by virtue of age, regardless of whether the minor is accompanied by a parent or guardian, or if, as a prevailing practice, the films, motion pictures, video cassettes, slides or similar photographic reproductions, or other projected images presented are characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

(g) **ADULT NOVELTY STORE** means a business offering goods for sale or rent and that meets any of the following tests:

- (1) More than five percent (5%) of the stock in trade of the business consists of “sexually-oriented novelties or toys” and more than five percent (5%) of the gross public floor area of the business is devoted to the display of “sexually-oriented novelties or toys”; or
- (2) It offers for sale items from any two (2) of the following categories: “adult media,” “sexually-oriented novelties or toys,” apparel or other items marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items constitutes more than ten percent (10%) of the stock in trade of the business and occupies more than ten percent (10%) of the gross public floor area of the business; or
- (3) Which advertises or holds itself out in any forum as a **SEXUALLY ORIENTED BUSINESS** by use of such terms as “sex toys,” “marital aids,” “X-rated,” “XXX,” “adult,” “sex,” “nude,” or otherwise advertises or holds itself out as a **SEXUALLY ORIENTED BUSINESS**.
- (4) **ADULT NOVELTY STORE** shall not include any establishment which, as a substantial portion of its business, offers for sale or rental to persons employed in the medical, legal or education professions anatomical models, including representations of human genital organs or female breasts, or other models, displays, and exhibits produced and marketed primarily for use in the practice of medicine or law or for use by an educational institution.

(h) **ADULT THEATER** means a theater, concert hall, auditorium, or similar commercial establishment that as a substantial or significant portion of its business regularly features persons who appear in a state of nudity or semi-nudity, live performances which are characterized by an emphasis on the depiction or description of “specified anatomical areas,” “specified sexual activities,” or live entertainment of an erotic nature that is characterized by an emphasis on the depiction or description of “specified anatomical areas,” or “specified sexual activities”.

(i) **ESTABLISHMENT** means and includes any of the following:

- (1) The opening or commencement of any **SEXUALLY ORIENTED BUSINESS** as a new business;

- (2) The conversion of an existing business, whether or not a **SEXUALLY ORIENTED BUSINESS**, to any **SEXUALLY ORIENTED BUSINESS**;
- (3) The addition of another **SEXUALLY ORIENTED BUSINESS** to any other existing **SEXUALLY ORIENTED BUSINESS**; or
- (4) The relocation of any **SEXUALLY ORIENTED BUSINESS**.

(j) **GROSS PUBLIC FLOOR AREA** means the total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-computer areas, storage areas visible from such other areas, restrooms (whether or not labeled “public”), areas used for cabarets or similar shows (including stage areas), plus aisles, hallways and entryways serving such areas.

(k) **NUDE MODEL STUDIO** means any place where a person who appears semi-nude or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include:

- (1) A proprietary school licensed by the State of Ohio, or a college, junior college or university supported entirely or in part by public taxation.
- (2) A private college or university that offers educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (3) An establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and where no more than one (1) semi-nude model is on the premises at any one time.

(l) **NUDITY** or **STATE OF NUDITY** or **NUDE** means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume, or covering that gives the appearance of or simulates any of these anatomical areas.

(m) **SEMI-NUDITY** or **SEMINUDE CONDITION** or **SEMI-NUDE** means exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.

(n) **SEXUAL ENCOUNTER CENTER** means a commercial enterprise that, as one (1) of its principal business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

- (2) Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is semi-nude.
- (3) **SEXUAL ENCOUNTER CENTER** shall not include:
 - A. Any establishment or professional practice operated or conducted by a medical practitioner, physical therapist, rehabilitation therapist, or a massage therapist, if such person is licensed by or registered with the State of Ohio, or licensed by the City of Lakewood, while practicing within the scope of such license or registration and according to the standards and ethics of such profession or of any person acting under the supervision of a medical practitioner, physical therapist, rehabilitation therapist, or massage therapist; or
 - B. Any establishment or professional practice operated or conducted by a health care professional licensed in the State of Ohio while practicing within the scope of such license and according to the standards and ethics of such profession or of any person acting under the supervision of a licensed health care professional.

(o) **SEXUALLY ORIENTED BUSINESS** means an adult arcade, adult media store, adult novelty store, adult cabaret, adult motion picture theater, adult theater, nude model studio, or sexual encounter center. "SEXUALLY ORIENTED BUSINESS" does not include an adult motel as defined above.

(p) **SEXUALLY ORIENTED NOVELTIES OR TOYS** means instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs or for use in connection with "specified sexual activities."

- (q) **SPECIFIED ANATOMICAL AREAS** means:
- (1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - (2) Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.

- (r) **SPECIFIED SEXUAL ACTIVITIES** means any of the following:
- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
 - (3) Excretory functions as part of or in connection with any of the activities set forth in subsection (r)(1) and (2) above.

(s) **SUBSTANTIAL ENLARGEMENT** of a **SEXUALLY ORIENTED BUSINESS** means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this section takes effect.

(t) **STOCK IN TRADE** means the individual items displayed in areas open to the public and offered for sale or rental in an establishment.
(Ord. 25-01. Passed 7-2-01.)

1163.03 CLASSIFICATIONS.

SEXUALLY ORIENTED BUSINESSES are classified as follows:

- (a) Adult arcades;
- (b) Adult cabarets;
- (c) Adult media stores;
- (d) Adult novelty stores;
- (e) Adult motion picture theaters;
- (f) Adult theaters;
- (g) Nude model studios;
- (h) Sexual encounter centers; and
- (i) Any combination of classifications set forth in paragraphs (a) through (h) above.
(Ord. 25-01. Passed 7-2-01.)

1163.04 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(a) SEXUALLY ORIENTED BUSINESSES may be located only in a C1 Office, C2 Retail, and C3 General Business Districts as a permitted use pursuant to Section 1129.02 and in accordance with the restrictions contained in subsections (b) through (i) below.

(b) No SEXUALLY ORIENTED BUSINESSES may be established or operated within 500 feet of:

- (1) A church, synagogue, mosque, temple or other building which is used primarily for religious worship and related religious activities;
- (2) A public or private educational facility that serves persons younger than eighteen (18) years of age, including but not limited to nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
- (3) Any property containing a "Type A" or "Type B" day-care facility as those terms are defined in Section 1103.02(z) and 1103.02(aa);
- (4) Any private property containing a community/recreation center including the YMCA that regularly serves persons younger than eighteen (18) years of age;
- (5) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the *City* which is under the control, operation, or management of the *City*, the Board of Education, or another public entity;
- (6) A public library or museum that regularly serves persons younger than eighteen (18) years of age.

(c) No SEXUALLY ORIENTED BUSINESSES may be established or operated on any lot within 200 feet of the centerline of the following designated economic development areas and major thoroughfares: West 117th Street, Bunts Road, Detroit Avenue, McKinley Avenue/Larchmont Avenue, Warren Road, the intersection of Lark Street and Madison Avenue east to West 117th Street, and all commercially zoned parcels located between Fry Avenue and West 117th Street north of Detroit Avenue and all commercially zoned parcels located between Newman Avenue and West 117th Street north of Madison Avenue, known as the Berea Road/West 117th Street Study Area; and, the intersection of Arthur Avenue and Madison Avenue west to the intersection of Wagar Avenue and Madison Avenue including Hilliard Road from Carabel Avenue west to Eldred Avenue, known as the Hilliard Triangle.

(d) No Adult Cabaret, as defined in Section 1163.02 of this Chapter, may be established or operated within 200 feet of:

- (1) A boundary of a residential district as defined in the *Code*;
- (2) Any structure that contains a permitted or conditionally permitted residential use or a lawful non-conforming residential use as defined in the *Code*.

(e) No SEXUALLY ORIENTED BUSINESS may be established, operated or enlarged within 500 feet of another SEXUALLY ORIENTED BUSINESS .

(f) Not more than one (1) SEXUALLY ORIENTED BUSINESS shall be established or operated in the same building, structure, or portion thereof, and the floor area of any SEXUALLY ORIENTED BUSINESS in any building, structure, or portion thereof containing another SEXUALLY ORIENTED BUSINESS may not be increased.

(g) For the purpose of subsections (b) and (d) of this Section, measurement shall be made from the nearest portion of the building or structure used as the part of the premises where a SEXUALLY ORIENTED BUSINESS is conducted, to the nearest property line of the premises of a use listed in Sections 1163.04(b)(1) through (6) and 1163.04(d)(1) and (2) following the routes of property lines along public rights-of-way (to approximate pedestrian distances).

(h) For the purpose of subsection (c) of this Section, measurement shall be made in a straight line from the centerline of the street to the nearest portion of any zoning lot.

(i) For purposes of subsection (e) of this Section, the distance between any two (2) SEXUALLY ORIENTED BUSINESS shall be measured from the closest exterior wall of the structure in which each business is located, following the routes of property lines along public rights-of-way (to approximate pedestrian distances).
(Ord. 25-01. Passed 9-2-01.)

1163.05 DESIGN GUIDELINES FOR SEXUALLY ORIENTED BUSINESSES.

(a) Parking for a SEXUALLY ORIENTED BUSINESS shall be configured so as to prevent vehicular headlights from shining into adjacent residentially zoned and/or used property. Parking areas configured such that vehicular headlights are directed toward public rights-of-way across from residentially zoned and/or used property shall provide continuous screening and shall conform to the design requirements set forth in Chapter 1325 of the Building Code and be approved by the Architectural Board of Review. Landscaping and screening shall be continuously maintained and promptly restored, if necessary, pursuant to Chapter 1141.

(b) Ingress and egress drives and primary circulation lanes shall be located away from residential areas where practical to minimize vehicular traffic and noise which may become a nuisance to adjacent residential areas.

(c) All building entrances intended to be utilized by patrons shall be located on the side(s) of the building which does not abut residentially zoned and/or used property, whenever possible, to minimize the potential for patrons to congregate and create noise which may become a nuisance to adjacent residential areas.

(d) All exterior site and building lighting, which shall be provided, is approved by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code, and such design shall minimize the intrusive effect of glare and illumination upon any abutting areas, especially residential.

(e) Any SEXUALLY ORIENTED BUSINESS adjacent to a residential district and/or use shall contain a minimum six (6) foot high solid fence along such abutting property lines and be approved by the Architectural Board of Review pursuant to Chapter 1325.

(f) Delivery trucks shall only be permitted between the hours of 8:00 a.m. and 9:00 p.m. pursuant to Chapter 515 of the Ordinances.

(g) Loading, unloading, trash removal, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects shall only be permitted between the hours of 8:00 a.m. and 9:00 p.m. pursuant to Chapter 515 of the Ordinances.

(h) Lot area and frontage regulations pursuant to Section 1129.05.

(i) Minimum yard requirements for principal uses pursuant to Section 1129.06.

(j) Height regulations pursuant to Section 1129.07.
(Ord. 25-01. Passed 7-2-01.)

1163.06 OFF-STREET PARKING.

Off-Street parking for a SEXUALLY ORIENTED BUSINESS shall be provided, pursuant to Section 1143.04 and Section 1143.05.
(Ord. 25-01. Passed 7-2-01.)

1163.07 SIGN REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES.

(a) All signs for a SEXUALLY ORIENTED BUSINESS shall be "wall signs" as defined in Section 1329.03(c) of the Building Code and shall be constructed and located in conformance with all applicable provisions of Sections 1329.04, 1329.05, 1329.09, 1329.12, and 1329.16 of the Building Code.

(b) All signs for a SEXUALLY ORIENTED BUSINESS if illuminated shall be in conformance with Section 1329.06 of the Building Code and meet all applicable provisions of Section 1329.14 as regards conditions and materials.

(c) All signs for a SEXUALLY ORIENTED BUSINESS shall be maintained in accordance with Section 1329.13 of the Building Code and may be ordered to be removed in accordance with the provisions of that Section.

(d) No merchandise or pictures of the products or entertainment on the premises of a SEXUALLY ORIENTED BUSINESS shall be displayed on signs, in window areas or any area where they can be viewed from the sidewalk or street in front of the building.

(e) Window areas of a SEXUALLY ORIENTED BUSINESS shall not be covered or made opaque in any way. No signs shall be placed in any window. A one (1) square foot sign shall be placed on the door to state hours of operation and admittance to adults only.
(Ord. 25-01. Passed 7-2-01.)

1163.08 LICENSING.

SEXUALLY ORIENTED BUSINESSES as described in Section 1163.03 herein shall be licensed pursuant to Licensing Ordinance 28-01; Chapter 777.
(Ord. 25-01. Passed 7-2-01.)

1163.09 SEVERABILITY.

If any section, subsection, or clause of this Chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.
(Ord. 25-01. Passed 7-2-01.)

TITLE SEVEN - ADMINISTRATION AND ENFORCEMENT

Chap. 1171. Administrative Powers and Duties.

Chap. 1173. Procedures for Conditional Use and Occupancy Permits, Variances, and Appeals; Determination of Similar Use; Fees; Amendments.

Chap. 1175. Enforcement and Penalties.

CHAPTER 1171

Administrative Powers and Duties

1171.01 Building Commissioner.

1171.02 Director, Department of Planning and Development.

1171.03 Planning Commission.

1171.04 Board of Zoning Appeals.

1171.05 Permits.

CROSS REFERENCES

Demolition or removal of residential structures - see P.& Z. 1133.09

Historic Preservation Districts and Historic Properties - see P.& Z. Ch. 1134

Mixed Use Overlay District - see P.& Z. Ch. 1135

Planned Development - see P.& Z. Ch. 1156

Conditional uses - see P.& Z. Ch. 1161

Conditional use permits - see P.& Z. 1173.02

Determination of similar use - see P.& Z. 1173.03

Variances - see P.& Z. 1173.04

1171.01 BUILDING COMMISSIONER.

For purposes of this *Code*, the Commissioner, or the Commissioner's designee, shall have the following powers and duties:

- (a) To enforce this *Code* and interpret the meaning and application of its provisions, including zoning district boundaries as shown on the *Zoning Map*.
- (b) To approve minor area variances pursuant to Section 1173.04(b), and keep a record of same with a notation of any special conditions involved.
- (c) To confirm and/or determine site conditions and project dimensions from all applications.

- (d) To conduct inspections of structures and uses of land to determine compliance with this **Code** and to maintain records related to said inspections; in the case of any violation, the Commissioner shall notify in writing the owner and, where applicable, the tenant(s) of any such structure or structures, said notice to specify the nature of the violation and necessary corrective action.
- (e) To determine the existence of any violation of the **Code** and cause such notifications, revocation notices, stop orders, or citations to be issued, or initiate such other administrative or legal action as needed to address such violations.
- (f) To deny or revoke a Certificate of Occupancy or any permit required by this **Code** or these Ordinances where the proposed use or structure does not comply with this **Code** or these Ordinances.
(Ord. 91-95. Passed 10-7-96.)

1171.02 DIRECTOR, DEPARTMENT OF PLANNING AND DEVELOPMENT.

In addition to the powers and duties conferred by Charter, the Director, or the Director's designee, shall, for purposes of this **Code**, have the following duties:

- (a) To respond to questions concerning applications for amendments to the Code and **Zoning Map**.
- (b) To maintain in current status the official **Zoning and Building Line Maps**, which shall be kept on permanent display in the offices of the Director.
- (c) To maintain such records as are required for the proper administration of this **Code**, including but not limited to zoning approval, variances, conditional uses, and similar use determinations; and to make such records available for use by Council, the Commission, the Board and the public.
- (d) To administratively review and approve or disapprove an application for a Certificate of Appropriateness according to the specific criteria set forth in Chapter 1134.
(Ord. 105-07. Passed 5-19-08.)

1171.03 PLANNING COMMISSION.

In addition to the powers and duties conferred by Charter the Commission shall, for purposes of this **Code**, have the following duties:

- (a) To review and approve or disapprove an application for a Conditional Use Permit for a particular lot according to the general criteria set forth in Section 1173.02 and the specific criteria set forth in Chapter 1161.
- (b) To determine that a proposed use not listed or provided for in this **Code** is substantially similar to a permitted or conditionally permitted use that is listed and provided for in this **Code** by applying the criteria set forth in Section 1173.03.
- (c) To review and approve or disapprove each application for a use variance.
 - (1) In the case of a use variance to allow a use not permitted under this **Code** in the zoning district in which the property is located, the Commission must find that the applicant has demonstrated that the literal enforcement of the **Code** will result in unnecessary hardship according to the criteria set forth in Section 1173.04(d).

- (2) When granting a use variance, the Commission may prescribe any conditions or safeguards that it deems necessary to insure that the applicant will comply with the terms of the variance, and to preserve the spirit and intent of the *Code*.
- (d) To review and approve or disapprove amendments to the regulations, restrictions, and boundaries set forth in this *Code*.
- (e) To review at least once each year the regulations, restrictions, and boundaries set forth in this *Code* to determine whether same are consistent with the *Vision* and the public purposes specified herein, in order to make recommendations to Council where necessary; the first such annual review shall be completed not later than December 31, 1997.
- (f) To review and recommend to Council approval or disapproval of plats for the subdivision and resubdivision of any major subdivision.
- (g) To review and approve or disapprove an application for a Mixed Use Overlay according to the criteria set forth in Chapter 1135.
- (h) To review and approve or disapprove an application for a Planned Development according to the specific criteria set forth in Chapter 1156.
- (i) The Commission shall hold a public hearing within sixty (60) days after receipt of an application, request for determination, or referral before the Commission pursuant to this Section.
- (j) If the Commission disapproves an application for demolition of a Landmark Property pursuant to the criteria set forth in Section 1133.09, the Commission, or its designee, along with the Director, Commissioner and other officials of the *City*, shall participate in negotiations with the owner or owners of such Landmark Property and any other interested party in an effort to find a means of preserving the property as follows:
 - (1) During the period of delay as set forth in Section 1133.09, the parties shall undertake meaningful and continuing discussions for the purpose of finding a method of saving such Landmark
 - (2) If the parties do not agree on a means of preserving the Landmark Property within the period of delay as set forth in Section 1133.09, the Commission, upon the expiration of such period, shall grant permission with respect to the proposed demolition or removal, and such permission shall immediately be communicated to the Commissioner for the purpose of issuing a necessary permit.
- (k) To review and approve or disapprove an application for HPD or HP designations according to the specific criteria set forth in Chapter 1134.
- (l) Within thirty (30) days after the public hearing required by subsection (i) herein, the Commission shall either approve, approve with supplementary conditions, defer, or disapprove the application, request for determination, or referral; the determination of the Commission shall be supported by findings stated on the record.
(Ord. 105-07. Passed 5-19-08.)

1171.04 BOARD OF ZONING APPEALS.

In addition to the duties conferred by Charter, the Board shall have the following duties:

- (a) To review appeals from decisions of the Commissioner.
- (b) To review each application for an area variance which does not qualify as a minor variance under Section 1173.04(b).
 - (1) In reviewing such application, the Board shall determine whether the applicant can demonstrate that the literal enforcement of this *Code* will, in the case of an area variance, result in practical difficulty according to the criteria set forth in Section 1173.04(c).
(Ord. 5-02. Passed 2-4-02.)
 - (2) When granting an area variance, the Board may prescribe any conditions or safeguards that it deems necessary to insure that the applicant will comply with the terms of the variance, and to preserve the spirit and intent of the *Code*.
(Ord. 124-05. Passed 2-6-06.)
- (c) The Board shall hold a public hearing within thirty (30) days after receipt of an application for a variance or an appeal of a decision of the Commissioner.
(Ord. 5-02. Passed 2-4-02.)
- (d) Within thirty (30) days after the public hearing required by paragraph (c) herein, the Board shall either approve, approve with supplementary conditions, defer, or disapprove the appeal or variance; the determination of the Board shall be supported by findings stated on the record.
(Ord. 91-95. Passed 10-7-96.)

1171.05 PERMITS.

(a) No department, board, official or public employee of the *City* who is vested with the duty or authority to issue permits, certificates or licenses for any building, purpose, or use shall issue same if such building, purpose, or use would be in conflict with the provisions of this *Code*, and any permit so issued, shall be null and void without the necessity of any proceedings for revocation, and any work undertaken or use established pursuant to any such authorization shall be unlawful. No action shall be taken by any board, agency, officer or employee of the *City* purporting to validate any such violation.

(b) The Commissioner shall issue no building permit or Certificate of Occupancy for any building, structure, use or change of use during the period in which an Ordinance, or other measure which would forbid the action authorized under such permit, is pending before Council or has been formally recommended to Council by the Commission, or is subject to referendum or referendum is pending thereon. However, no permit shall be withheld for more than 180 days after acceptance of application therefor (due to such Ordinance or measure still pending before but not yet passed by Council at the end of such 180 day period).
(Ord. 91-95. Passed 10-7-96.)

CHAPTER 1173
Procedures for Conditional Use and Occupancy Permits, Variances, and Appeals;
Determination of Similar Use; Fees; Amendments

1173.01 Certificate of Use and Occupancy required. 1173.02 Conditional use permits. 1173.03 Determination of similar use.	1173.04 Variances. 1173.05 Appeals. 1173.06 Fees. 1173.07 Amendments.
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CROSS REFERENCES

Publication of legal notices - see ADM. Ch. 107
Historic Preservation Districts and Historic Properties - see P.& Z. Ch. 1134
Mixed Use Overly District - see P.& Z. Ch. 1135
Planned Development - see P.& Z. Ch. 1156
Wireless telecommunication facilities - see P.& Z. Ch. 1159
Conditional uses - see P.& Z. Ch. 1161
Planning Commission - see P.& Z. 1171.03
Board of Zoning Appeals - see P.& Z. 1171.04

1173.01 CERTIFICATE OF USE AND OCCUPANCY REQUIRED.

A certificate of use and occupancy shall be obtained from the Commissioner for any of the following:

- (a) Use and occupancy of a building hereafter erected or structurally altered.
- (b) A change in use of an existing building to a use of a different district classification under this *Code*.
- (c) Use and occupancy of vacant land or change in use of land.
- (d) Any change in the use of a non-conforming use.
- (e) Any change of tenants of a retail unit.
- (f) Any change in the ownership of a non-owner occupied single- or two-family dwelling.
- (g) Any change in the ownership of any three-family or multi-family dwelling.

No such occupancy, use or change of use shall take place until a Certificate of Use and Occupancy has been issued by the Commissioner.
(Ord. 91-95. Passed 10-7-96.)

1173.02 CONDITIONAL USE PERMITS.

- (a) Submission Requirements.
 - (1) An application for a Conditional Use Permit shall be on a form approved by the Director and shall contain the following information:

- A. The name, address, and telephone number of the applicant.
 - B. The address and zoning district of the subject property.
 - C. A narrative description of the existing use.
 - D. A narrative description of the proposed conditional use, including a discussion of the compatibility of the proposed use with the existing uses of adjacent properties and the impact of the proposed use on adjacent properties considering such elements as parking, traffic, noise, lighting, fumes, and the outdoor storage of goods.
 - E. Where applicable, a site plan of the proposed conditional use showing the locations of all buildings, parking and loading areas, streets and access ways, service areas, utilities, signs, yards, landscaping, and other information the Commission may require.
 - F. Whether or not the property is listed on the federal, state, or local register of historic places.
 - G. Any documents reasonably deemed necessary by the Director.
 - H. The fee as established pursuant to Section 1173.06.
- (2) Upon receipt of an application for a Conditional Use Permit, the Director shall, within three (3) working days, make a preliminary review of the application to determine compliance with the requirements of paragraph (a)(1) herein. If the Director determines that the application is not complete, the Director shall immediately notify the applicant; otherwise, the Director shall forward the application to the Commission for review at its next regularly scheduled meeting.

(b) In addition to the specific criteria for a conditionally permitted use specified in Chapters 1135, 1159 or 1161, the Commission shall consider and weigh the following factors when reviewing an application for a Conditional Use Permit:

- (1) Whether the proposed use is consistent with the comprehensive plan;
- (2) Whether the proposed use will be designed, constructed, operated, and maintained so as to be harmonious with existing and/or intended adjacent uses;
- (3) Whether the proposed use will be served adequately by existing public utilities and services, and the impact of the proposed use on such utilities and services;
- (4) Whether the proposed use will have a substantially detrimental impact on the public health, safety, and welfare;
- (5) Whether the proposed use will interfere substantially with vehicular and pedestrian traffic on surrounding public rights-of-way;
- (6) Whether the proposed use will result in the destruction, loss, or damage to a property listed on the federal, state, or local register of historic places; and
- (7) Any other factors the Commission reasonably deems applicable.
(Ord. 91-95. Passed 10-7-96.)

(c) Notice Procedures. Where a Conditional Use Permit is requested, notice of the public hearing held pursuant to Section 1171.03(i) shall be made in a newspaper of general circulation no less than seven (7) days before the hearing; said notice shall state the time and place of the hearing in accordance with Chapter 107 (Publication of Legal Notices) of the Ordinances. (Ord. 124-05. Passed 2-6-06.)

- (1) In addition, notice, indicating the time, place, and subject of the hearing, shall be sent by regular mail to the owners of:
 - A. All properties abutting the subject property;
(Ord. 91-95. Passed 10-7-96.)
 - B. All properties abutting such properties described in subsection (c)(1)A. hereof, excepting properties located across the right-of-way from or behind said abutting properties.
(Ord. 24-98. Passed 5-18-98.)
 - C. Any other property the Director deems affected by the proposed variance.
- (2) Where a lot described in subsection (c)(1) hereof contains a condominium of more than ten (10) units, notice shall be sent to the president of the condominium association and the management company responsible for the building; the management company shall receive sufficient copies of the notice to post two (2) on every floor of the building at locations determined by the company.

(d) A Conditional Use Permit shall be deemed to authorize only one (1) particular conditional use and said permit shall automatically expire if such conditionally permitted use has not been instituted or utilized within one (1) year of the date on which the permit was issued or if for any reason such use shall be discontinued for more than one (1) year.
(Ord. 91-95. Passed 10-7-96; Ord. 61-04. Passed 7-6-04.)

1173.03 DETERMINATION OF SIMILAR USE.

(a) Submission Requirements.

- (1) A request for a determination of similar use shall be on a form approved by the Director and shall contain the following information:
 - A. The name, address, and telephone number of the applicant.
 - B. Proof of ownership, legal interest, or written authority to make the application.
 - C. A description of the proposed similar use, including a discussion of the compatibility of the proposed use with uses otherwise permitted in the subject district.
 - D. Where applicable, site plans, elevations, and other drawings at a reasonable scale to show the need for the variance.
 - E. Any other documents reasonably deemed necessary by the Director.
 - F. The fee established pursuant to Section 1173.06.
- (2) Upon receipt of a request for a determination of similar use, the Director shall, within three (3) working days, make a preliminary review of the application to determine compliance with the requirements of subsection (a)(1) hereof. If the Director determines that the application is not complete, the Director shall immediately notify the applicant; otherwise, the Director shall forward the application to the Commission for review at its next regularly scheduled meeting.

(b) The Commission shall consider and weigh the following factors when making a determination of similar use:

- (1) Whether the proposed use is compatible with the other uses listed as permitted or conditionally permitted in the district in which the proposed use would be located.
- (2) Whether the proposed use will negatively impact the district in which it would be located when considering such factors as parking, traffic generation, and public services.
- (3) Any other factors the Commission reasonably deems applicable.
(Ord. 91-95. Passed 10-7-96.)

(c) Where the Commission finds that a proposed use is substantially similar to a permitted use in a Commercial Office C1 District, Commercial Retail C2 District, Commercial General Business C3 District, Commercial Public School C4 District, or the Industrial (I) District in which it is to be located, the similar use shall be a **permitted similar use** for said district.

(d) Where the Commission finds that a proposed use is substantially similar to a conditionally permitted use in a Commercial Office C1 District, Commercial Retail C2 District, Commercial General Business C3 District, Commercial Public School C4 District, or the Industrial (I) District in which it is to be located, the similar use shall be a **conditionally permitted similar use** for said district subject to the requirements of Section 1173.02.

(e) Notice Procedures. Where a determination of similar use is requested, notice of the public hearing held pursuant to Section 1171.03(i) shall be made in a newspaper of general circulation no less than seven (7) days before the hearing; said notice shall state the time and place of the hearing in accordance with Chapter 107 (Publication of Legal Notices) of the Ordinances.
(Ord. 124-05. Passed 2-6-06.)

- (1) In addition, notice, indicating the time, place, and subject of the hearing shall be sent by regular mail to the owners of:
 - A. All properties abutting the subject property;
(Ord. 91-95. Passed 10-7-96.)
 - B. All properties abutting such properties described in subsection (e)(1)A. hereof, excepting properties located across the right-of-way from or behind said abutting properties;
(Ord. 24-98. Passed 5-18-98.)
 - C. Any other property the Director deems affected by the proposed similar use.
- (2) Where a lot described in subsection (e)(1) hereof contains a condominium of more than ten (10) units, notice shall be sent to the president of the condominium association and the management company responsible for the building; the management company shall receive sufficient copies of the notice to post two (2) on every floor of the building at locations determined by the company.
(Ord. 91-95. Passed 10-7-96.)

(f) No order of the Board or Commission granting a variance(s) shall be valid for a period longer than twelve (12) months from the date of such order unless the building permit or occupancy permit is obtained within such period and the erection or alteration of the structure is started or the use is commenced within such period.
(Ord. 124-05. Passed 2-6-06.)

1173.04 VARIANCES.

(a) Submission Requirements.

- (1) A request for a variance(s) shall be on a form approved by the Commissioner and shall, at a minimum contain the following information:
 - A. The name, address, and telephone number of the applicant.
 - B. Proof of ownership, legal interest, or written authority to make the application.
 - C. A description of the variance(s) requested and a narrative establishing and substantiating the justification for the variance(s) pursuant to the criteria set forth in subsections (c) or (d) of this Section 1173.04, whichever is applicable.
 - D. Site plans, elevations, and other drawings at a reasonable scale to show the need for the variance(s).
 - E. Any other documents reasonably deemed necessary by the Commissioner.
 - F. The fee established pursuant to Section 1173.06.
- (2) Upon receipt of a request for a variance(s), the Commissioner shall, within three (3) working days, make a preliminary review of the application to determine compliance with the requirements of subsection (a)(1) hereof. If the Commissioner determines that the application is not complete, the Commissioner shall immediately notify the applicant; otherwise, the Commissioner shall forward the application to the Board for review.

(b) Minor Area Variances.

- (1) The Commissioner is hereby authorized to grant minor area variance(s), as hereinafter defined.
- (2) **MINOR AREA VARIANCE** means an area variance(s) of less than ten percent (10%) of the permitted lot coverage, or of the required side yard or rear yard, as set forth in the applicable section of this *Code*.
- (3) When determining whether to grant a minor area variance(s), the Commissioner shall consider whether the applicant will experience a practical difficulty by applying the criteria set forth in subsection (c) herein.
- (4) Where application is made for a minor area variance(s), the applicant shall provide, on a form approved by the Commissioner, written evidence that the owners of properties abutting the subject property have been informed of the project and variance(s) requested and do not object to same; where the owners of abutting properties do not object, the Commissioner is authorized to grant the variance(s) and issue the necessary permit(s).
- (5) A decision of the Commissioner to deny the variance(s), or where the Commissioner has received an objection to the application from an abutting property owner, may be appealed to the Board pursuant to Section 1173.05.

(c) The following factors shall be considered and weighed by the Commissioner and/or Board, whichever is applicable, when determining whether an applicant will experience practical difficulty:

- (1) Whether there exist site conditions, such as narrowness, shallowness, or topography, unique to the property in question that are not applicable generally to other lands or structures in the same zoning district;

- (2) Whether the property in question is located near a non-conforming or non-harmonious use, structure, or site conditions, or whether the property in question abuts a less restrictive zoning district;
 - (3) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance(s);
 - (4) Whether the variance(s) is substantial;
 - (5) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance(s);
 - (6) Whether the variance(s) would adversely affect the delivery of governmental services (e.g., water, sewer, refuse removal);
 - (7) Whether the property owner purchased the property with knowledge of the zoning restriction;
 - (8) Whether the property owner's predicament feasibly can be obviated through some method other than a variance(s); and
 - (9) Whether the spirit and intent of the **Code** would be observed and substantial justice done by granting the variance(s).
- (Ord. 91-95. Passed 10-7-96.)

(d) The following factors shall be considered by the Board or Commission, where applicable, when determining whether an applicant will suffer an unnecessary hardship; such hardship must be demonstrated by clear and convincing evidence as to **ALL** of the following:
(Ord. 24-98. Passed 5-18-98.)

- (1) The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which it is located;
 - (2) The variance(s) request stems from a condition which is unique to the property at issue and not ordinarily found in the district;
 - (3) The hardship condition is not created by actions of the applicant;
 - (4) The applicant purchased the property without knowledge of the zoning restriction;
 - (5) The variance(s) sought is the minimum which will afford relief to the applicant;
 - (6) The granting of the variance(s) will not adversely affect the rights of those property owners to whom notice is required under subsection (e) herein;
 - (7) The granting of the variance(s) will not adversely affect the public health, safety, or general welfare; and
 - (8) The variance(s) will be consistent with the general spirit and intent of this **Code**.
- (Ord. 91-95. Passed 10-7-96.)

(e) Notice Procedures. Where an area or use variance(s) is requested, notice of the public hearing held pursuant to Section 1171.04(c) shall be made in a newspaper of general circulation no less than seven (7) days before the hearing; said notice shall state the time and place of the hearing in accordance with Chapter 107 (Publication of Legal Notices) of the Ordinances.
(Ord. 124-05. Passed 2-6-06.)

- (1) In addition, notice, indicating the time, place, and subject of the hearing, shall be sent by regular mail to the owners of:
 - A. All properties abutting the subject property;

- B. All properties abutting such properties described in subsection (e)(1)A. hereof, excepting properties located across the right-of-way from or behind said abutting properties;
 - C. Any other property the Director deems affected by the proposed variance.
- (2) Where a lot described in subsection (e)(1) hereof contains a condominium of more than ten (10) units, notice shall be sent to the president of the condominium association and the management company responsible for the building; the management company shall receive sufficient copies of the notice to post two (2) on every floor of the building at locations determined by the company.

(f) No order of the Board or Commission granting a variance(s) shall be valid for a period longer than twelve (12) months from the date of such order unless the building permit or occupancy permit is obtained within such period and the erection or alteration of the structure is started or the use is commenced within such period.
(Ord. 91-95. Passed 10-7-96.)

1173.05 APPEALS.

(a) Any person adversely affected by a decision of the Commissioner may take an appeal to the Board or Commission.

(b) Such appeal shall be taken within thirty (30) calendar days of the decision of the Commissioner by filing with the Director a written notice of appeal specifying the grounds thereof and accompanied by the fee established pursuant to Section 1173.06.

(c) The Director shall immediately forward to the Board or Commission the notice of appeal and all documents constituting the record of the decision upon which the appeal is based.

(d) The Board or Commission shall address the appeal within the time periods specified in Section 1171.04 paragraphs (c) and/or (d).
(Ord. 91-95. Passed 10-7-96.)

1173.06 FEES.

- (a) Fee for an application for:
- (1) Variance
 - A. Residential: \$25.00
 - B. Commercial: \$50.00
 - (2) Similar Use
 - A. Residential: \$25.00
 - B. Commercial: \$50.00
 - (3) Conditional Use
 - A. Residential: \$75.00
 - B. Commercial: \$150.00
 - C. Mixed Use Overlay District: \$250.00
 - (4) HPD and HP Designation
 - A. Residential: \$25.00
 - B. Commercial: \$50.00

- (b) Minor Subdivision: \$200.00
- (c) Lot Consolidation: \$200.00
- (d) Lot Split: \$200.00
- (e) Major Subdivision: \$400.00
- (f) Planned Development: \$500.00

(g) Fee for an application for an amendment to the Zoning Ordinance by a property owner shall be \$500.00. It shall be submitted to the Secretary of the Planning Commission who shall convey the \$500.00 to the Finance Department for a receipt.

- (h) Certificate of Occupancy
 - (1) Residential: \$50.00
 - (2) Commercial: \$75.00
- (i) Other
 - (1) Boutique: \$25.00
 - (2) Fences: \$25.00
 - (3) Satellite dish antenna: \$10.00 per antenna
 - (4) Wireless telecommunication tower, facilities and antennas:
 - A. New wireless telecommunication tower and related facility - \$1,500.00 deposit upon which expenses incurred by the City will be drawn and the balance, if any, returned to the applicant upon final inspection prior to authorization of commencement of the use.
 - B. New wireless telecommunication antenna and related facilities (without tower) - \$500.00
 - C. Annual inspection fee - \$100.00
 - D. Reimbursement of expenses - The applicant for a wireless telecommunication tower and/or antenna facility shall be responsible for all expenses incurred by the City for any technical and/or engineering services deemed necessary by the Director, the Commissioner, the Commission, the Board or the Architectural Review Board to perform the reviews required by Chapter 1159 which are not covered by the fees set forth in subsection (4) of this Section 1173.06.
(Ord. 105-07. Passed 5-19-08.)

1173.07 AMENDMENTS.

(a) The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed or repealed, provided, however, that no such action may be taken until after it has been referred to the Commission for a public hearing.
(Ord. 91-95. Passed 10-7-96.)

CHAPTER 1175
Enforcement and Penalties

1175.01 Penalties.**1175.02 Non-compliance tickets.**

1175.01 PENALTIES.

(a) Whoever violates any provision of this *Code*, including violation of any condition placed on a granted variance or a conditionally permitted use, is guilty of a minor misdemeanor, provided that such person has not, within two (2) years of the violation, been convicted of or plead guilty to an offense under this *Code*.

(b) If the offender has been convicted of or plead guilty to an offense under this *Code* within two (2) years of the violation, a violation of any provision of this *Code* is a misdemeanor of the fourth degree.

(Ord. 91-95. Passed 10-7-96.)

1175.02 NON-COMPLIANCE TICKETS.

(a) Notwithstanding any other provision of this *Code*, any person accused of violating any provision of this *Code* may be issued a non-compliance ticket, in lieu of instituting prosecution for the alleged violation as provided in this Section.

(b) A person issued a non-compliance ticket shall:

- (1) Pay an administrative fee of \$75.00 to the Commissioner within fourteen (14) days of the issuance of the non-compliance ticket as a settlement and compromise of the claim against the accused; and
- (2) Correct, repair, or rectify the condition resulting in issuance of the non-compliance ticket within fourteen (14) days.

(c) If the accused fails to comply with the provisions of subsection (b) herein,

- (1) The non-compliance ticket may be converted to a complaint or notice to appear which shall be filed with the Municipal Court and the accused shall be subject to prosecution and the fines and penalties authorized by law; or
- (2) Additional non-compliance tickets may be issued.

(d) The Commissioner is authorized to promulgate administrative regulations to implement this Section.

(Ord. 91-95. Passed 10-7-96.)

