

EXHIBIT A

**CHAPTER 1133
Applications and Plan Review**

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1133.01 APPLICATION TO PLANNING COMMISSION.

Any person who is an owner of property or who is acting as an agent for the owner of property and who desires some action or recommendation by the Planning Commission in relation thereto must file an application with the Commission setting forth his request.

1133.02 APPLICATION REQUIREMENTS.

The application which is filed with the Planning Commission shall, in addition to all other pertinent data which the Commission might require, contain the following items related to the property, the requested action and the parties making application:

- a) The purpose for which the application is filed;
- b) A sufficient description of the property to enable the Commission to properly identify it;
- c) Drawings and legal descriptions necessary to a complete and accurate understanding of the subject of the application;
- d) A statement containing the name and address of the applicant together with his attorney or agent if he is represented;
- e) Execution of the agreement by the applicant or his attorney or agent on his behalf wherein the applicant agrees to appear upon request before any legally constituted board or commission of the Municipality for the purpose of interrogation by the board or commission regarding the matter of the application.

1133.03 FEES REQUIRED.

- a) The applicant shall pay to the Secretary of the Planning Commission or her clerk, cash or a certified or bank check in the amount of one hundred fifty dollars (\$150.00), plus the cost of the legal ad, which shall be used at the joint discretion of the Secretary of the Commission, the Law Director and the Finance Director to pay for advertising and legal expenses in connection with the request, including, but not limited to, the cost of advertising for public hearings, obtaining legal descriptions required by the Law Director and drafting of special legislation for submission to Council in the furtherance of the request.

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- b) For application for Planned Unit Developments, the applicant shall pay to the Secretary of the Planning Commission or her clerk, cash or a certified or bank check in the amount of one thousand five hundred dollars (\$1,500.00), plus the cost of the legal ad, which shall be used at the joint discretion of the Secretary of the Commission, the Law Director and the Finance Director to pay for advertising and legal expenses in connection with the request, including, but not limited to, the cost of advertising for public hearings, obtaining legal descriptions required by the Law Director and drafting of special legislation for submission to Council in the furtherance of the request.
- c) A twenty-five dollar (\$25.00) fee shall be made with and for each separate application which deals with sign approvals. This fee shall be nonrefundable.
- d) If an applicant desires a special meeting by the Planning Commission, he may request this special meeting and shall pay a fee of two hundred fifty dollars (\$250.00) for the services rendered.
- e) Any extra costs or additional work performed by the Law Department or the Municipal Engineer or any other department of the Municipality, including, but not limited to, engineering and architectural services, in connection with the matter contained in the application, shall be added to the application fee and the applicant shall bear all additional expenses.
- f) Applications, other than sign applications, must be filed and payment made not less than seven days prior to the meeting date.

1133.04 DEVELOPMENT PLAN REVIEW REQUIRED.

A development plan that indicates, among other things, the exact location of buildings, landscaping, parking areas, access drives, and signs shall be required for the following:

- a) Development Plan Review Required.
 - 1) New construction of all permitted uses, buildings and structures in all districts except Class A and Class A-1 Districts.
 - 2) New construction of a nonresidential use, building or structure in a Class A and Class A-1 District.
 - 3) Any multi-family or nonresidential existing or previously approved development that proposes to alter, reconstruct, or otherwise modify a use or site including expanding the floor area of the use.
 - 4) Any change to a nonconforming use, building or lot.
 - 5) Exceptions. A change of occupancy in an existing structure, or on a previously approved development plan, when there is no change in the bulk of the structure, and no change in the parking required, shall be exempt from the development plan review procedures.

1133.05 PRE-APPLICATION MEETING ENCOURAGED.

The applicant is encouraged to meet with the City administration prior to submitting an application for development plan review. The purpose of this meeting is to discuss early and informally with the applicant the purpose of this Code, the criteria and standards contained within, and the review schedule. However, no action shall be taken at such a meeting and no opinions, suggestions, or recommendations discussed shall be relied on by the applicant to indicate subsequent approval or disapproval of the development plan.

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1133.06 PLAN REVIEW PROCEDURES.

Plans shall be reviewed and distributed according to the following procedures:

- a) Application Submitted. An application for development plan review shall include the required submission items specified in Section 1113.09.
- b) Distribution of Plans. When the Chief Building Official determines that the application is complete, the Chief Building Official shall forward the application to the appropriate City departments and professional consultants for review and comment. Any reports, comments, or expert opinions shall be returned to the Chief Building Official within ten (10) days from the date the application is deemed complete.
- c) Transmission to the Planning Commission. The Chief Building Official shall distribute the application and any reports prepared by the individuals in sub-section (b) above to the Planning Commission, at least four days prior to the time of the next regularly scheduled meeting.

1133.07 ACTION BY PLANNING COMMISSION.

- a) The Planning Commission shall review the development plan according to the criteria in Section 1133.10, and any comments received from city departments in their review of the development plans.
- b) Following its review of a development plan, the Planning Commission shall:
 - 1) Approve the development plan as submitted; or
 - 2) Approve the development plan subject to specific conditions not included in the plan as submitted, such as, but not limited to, improvements in the setback layout, open space arrangement, on-site control of access to streets, or such features as fences, walls and plantings to further protect and improve the proposed and surrounding developments; or
 - 3) Deny the development plan when the application does not demonstrate that the required standards have been met; or
 - 4) If a development plan is found to not be in compliance with this Code, the Planning Commission may recommend revisions to be made by the developer and postpone action on the development plan until the next scheduled Planning Commission meeting.
- c) The City shall promptly furnish the applicant with its decision on the development plan.
- d) Failure of the Planning Commission to act within sixty (60) days from the date the application was deemed complete, or an extended period as may be agreed upon, the applicant may deem the application denied.
- e) Re-application after Denial. The Chief Building Official shall accept no re-application for a development plan unless the re-application is based on a revised application that addresses the reasons for the denial of the initial application. A re-application shall comply with all the requirements of this Chapter, including payment of the required fee. If an application is denied as a result of sub-section 1133.07(d), Failure of the Planning Commission to Act, the Chief Building Official shall accept a re-application for development plan review that has not been revised from the previous submittal.
- f) Issuance of Building Permit. The Chief Building Official may issue a building permit after a development plan is approved, or approved with conditions, by the Planning Commission, provided that all other requirements of all other applicable City codes related to the issuance of a building permit are satisfied, including the following:

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- 1) At the Chief Building Official's discretion, there shall be executed by the owner or applicant an agreement to construct required physical improvements located within the public rights-of-way or easements or connected to any public facility; and the applicant shall execute and deliver to the City a security approved by the City Engineer in the amount of the estimated cost of the required physical improvements as determined by the City Engineer. The agreement and the security shall provide for completion of all work within a time specified to be determined by the City Engineer or before occupancy is allowed in any structure, whichever shall occur first.
- 2) The approval of the development plan or the installation of improvements as required by this Zoning Code shall not obligate the City to accept improvements for maintenance, repair or operation. Acceptance shall be subject to local or state regulations where applicable, concerning the acceptance of each type of improvement.

1133.08 GENERAL PROVISIONS FOR DEVELOPMENT PLAN SUBMISSION.

Development plans shall be prepared by the applicant in compliance with the submission requirements set forth below in Sections 1133.09 as applicable.

- a) The Chief Building Official may waive any of the submittal requirements in this section if he/she determines, based on recognized planning or engineering principles and in an effort to achieve the goals of this Chapter, that they are unnecessary to determine compliance with appropriate codes and ordinances. Such waiver shall not be construed to authorize the reduction or waiver of any standard, regulation, or required improvement.
- b) Plans, unless otherwise permitted by the Chief Building Official, shall be prepared by professional persons qualified in the planning of land development, traffic engineering and building and landscape design. The architectural and engineering services required for the preparation of the preliminary plan shall be rendered by licensed professional persons.

1133.09 DEVELOPMENT PLAN SUBMISSION REQUIREMENTS.

A development plan shall disclose all uses proposed for the development, their location and arrangement, and shall include:

- a) The completed application form, along with the appropriate application fee;
- b) Survey of the property and topography, showing land owned and proposed for development, surrounding streets, adjoining streets, adjoining lots and their use and ownership, and the location and configuration of any shared facilities;
- c) A development plan drawn to scale and designed in accordance with the planning standards, regulations and criteria established in this Zoning Code, which discloses:
 - 1) The location, size, height and use of all existing and proposed buildings and structures, including accessory buildings, and uses, common land and open space, along with a notation of the development standards for building setback from property lines;
 - 2) Location and configuration of off-street parking and loading areas, the arrangement of internal and in-out traffic movement including access roads and drives; pedestrian walks, lane and other pavement markings to direct and control parking and circulation; the location of signs related to parking and traffic control; and type of pavement;
 - 3) Adjacent streets and property including lot lines, buildings, parking and drives within 200 feet of the site;

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- 4) The proposed location and design of streets, including the location of existing utilities to be maintained or changed and the location, size and grade for all utility installations and connections to present or proposed facilities;
 - 5) Location of proposed accessory structures including fences, walls, signs, and lighting, if applicable;
 - 6) Location and layout of all proposed and existing outdoor storage areas including storage of waste materials and location of trash receptacles;
 - 7) Summary table showing total acres of the proposed development, the number of acres devoted to each type of land use including streets and open space.
- d) Detailed landscape plan for all pervious land within the development area, and showing the design of landscaped yards, planting areas and fence screens adjoining residential areas, including:
- 1) A plan showing existing site conditions including water courses, topography, natural features and tree cover, and the location and configuration of all shared facilities; and,
 - 2) Proposed landscape, buffering and screening plan indicating the description of the size, location and nature of existing and proposed vegetation.
 - 3) A plant list containing the common and botanical names, sizes at the time of installation and at maturity, and quantities of all plants,
 - 4) Locations of permanent signs and site lighting.
- e) A grading plan.
- f) Proposed forms of covenants running with the land, deed restrictions, including the use of shared facilities, covenants, restrictions or easements to be recorded and covenants, if any, for maintenance.
- g) Estimated project cost for all public improvements for the purpose of providing estimates needed for performance guarantees.
- h) Copies of all agreements, contracts, dedications, deed restrictions, sureties and other instruments as may be appropriate.
- i) Preliminary architectural plans for the proposed development or use showing exterior elevations and building floor plans with dimensions, building materials, prepared and certified by a qualified Ohio design professional.
- j) Phasing schedule and land disposition program, if applicable.

1133.10 DEVELOPMENT PLAN REVIEW CRITERIA.

The Planning Commission shall review the development plan to determine if such application complies with the review criteria set forth below. The Planning Commission shall take into consideration the comments and recommendation of staff and consultants when reviewing the application. In order to approve a development plan, the Planning Commission shall determine that:

- a) The plan is consistent with any plan or goals for the orderly development of the City and, when applicable, conforms in all respects to an approved or provisionally approved preliminary development plan and the regulations of this Zoning Code;
- b) The appropriate use and value of property within and adjacent to the area will be safeguarded;
- c) The development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property;

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- d) Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property;
- e) The development will have adequate public service, parking, and open spaces, when applicable;
- f) The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this Planning and Zoning Code;
- g) The development will provide adequate lighting for safe and convenient use of the streets, walkways, driveways, and parking areas that is designed to minimize direct light, glare, and excessive glow, which unreasonably interferes with the use and enjoyment of adjacent property;
- h) Points of ingress/egress to the development shall be controlled and designed in such manner as to minimize conflicts with adjacent properties and developments;
- i) Adequate provision is made for emergency vehicle access and circulation, fire hydrants and firefighting water supply;
- j) The proposed signs, if applicable:
 - 1) Are of an appropriate size, scale, and design in relationship with the principal building, site, and surroundings; and,
 - 2) Adequately identify the use; and
 - 3) Are located to maintain safe and orderly pedestrian and vehicular circulation.
- k) The landscape plan will adequately buffer adjacent uses, where applicable.
- l) Adequate provision is made for storm drainage within and through the site so as to maintain, as far as practicable, usual and normal swales, water courses and drainage areas, and shall comply with the applicable regulations in this Zoning Code, and any other design criteria established by the City or any other governmental entity which may have jurisdiction over such matters; and,
- m) If the project is to be carried out in progressive stages, each phase shall be so planned that the foregoing criteria are complied with at the completion of each phase.

1133.11 REQUEST FOR ADDITIONAL INFORMATION.

In its review of an application, the Planning Commission may request that the applicant supply additional information deemed necessary to adequately review and evaluate the proposed development.

1133.12 SIMULTANEOUS PLAT APPROVAL.

If the proposed development includes the subdivision of land, the development shall be subject to the requirements of the plat approval process. Development plan approval and subdivision plat approval may proceed simultaneously at the discretion of the Planning Commission.

1133.13 SIGNIFICANCE OF AN APPROVED PLAN; PLAN REVISIONS.

- a) An approved development plan shall become for the proposed development a binding commitment of the specific elements approved for development. The approved development plan may be transferred to another person, corporation, or group of individuals or corporations prior to the issuance of a building permit. A request for such a transfer or change of ownership shall be presented to the Chief Building Official and granted only if the new ownership entity satisfies the administrative, financial, legal and all other performance guarantees approved with the original development plan.

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- b) All construction and development under any building permit shall be in accordance with the approved development plan. Any departure from such plan shall be cause for revocation of the building permit, and the property owner or other responsible parties are subject to penalties as prescribed by this Planning and Zoning Code.
- c) Modification after Approval.
 - 1) Changes in an approved development plan shall be resubmitted for approval in accordance with this Chapter.
 - 2) Approval of a modification or amendment to a previously approved development plan under the terms and provisions of this Chapter shall not extend or alter the time limitation established by Section 1133.14, which time shall continue to be measured from the date of approval of the original development plan.

1133.14 EXPIRATION OF DEVELOPMENT PLAN APPROVAL.

An approved development plan shall remain valid for a period of twelve (12) months following the date of its approval, unless the Planning Commission authorizes a longer period at the time of approval. If, at the end of that time, a building permit has not been obtained and/or the construction of the development has not begun, then approval of such development plan shall expire and shall be of no effect unless resubmitted and re-approved in accordance with the procedures set forth in this Chapter. Construction is deemed to have begun when all necessary excavation and piers or footings of one or more principal buildings included in the plan have been completed.

*** End of Chapter***